WATER-RIGHT DOCKET

Rocky Mountain National Park

Docket No: 23

TONAHUT CREEK. HARBISON DITCH

Preliminary Docket Information

00-00-0000: water docket information

WATER DOCKET INFORMATION

AREA: ROCKY MOUNTAIN N P

DOCKET NO. 23

APPLICATION NO.

PERMIT NO.

CERTIFICATE NO.

TITLE OF DOCKET: HARBISON RIGHTS- PRIORITY NO 199 and KELLEY RIGHTS- PRIORITY NO 1

PRIORITY

REMARKS:

WATER RIGHT RECORD

Park: ROMO

Docket Number:

Federal #23

IDENTIFICATION NO: ROMO, R, 3 1 0 4 7 5, A F, 2 3,

DITCH/WATER SYSTEM: Harbison Ditch

SOURCE OF SUPPLY: Tonahutu Creek

LOCATION: E ½ corner, Section 31, T4N, R75W of the 6th P.M. bears south 31°50' W 2491.5 feet.

WATER RIGHT:

Appropriator: United States of America, National Park Service

Application/Permit Number:

Certificate Record Number:

Date of Priority: #1 and #199, July 15, 1893

Quantity of Water: 3.345 c.f.s. April 15 to November 1
2.765 c.f.s. November 1 to April 15

Purpose: Domestic, Irrigation and Fish Culture

Irrigated Land Description:

SUMMARY OF STATUS:

DOCKET INFORMATION SHEET

Docket Identity	ROMO R 31 04 75 A F 23
Region	ROCKY MOUNTAIN
Area	ROCKY MOUNTAIN NATIONAL PARK
Site	HARRISON DITCH
State	COLORADO
County	GRAND
Docket	ROMO WATER RIGHT DOCKET 23
Location	T4N R75W SEC 31
Acquired by	PURCHASE
Application	
Permit	NO 1 AND NO 199
Certificate	
Priority	JULY 15 1893 - SEE BELOW
Reservation	JANUARY 26 1915
Status	ACTIVE FEDERAL
Source	SURFACE WATER
Use	DOMESTIC IRRIGATION AND FISH CULTURE
Quantity	
Hydrologic Unit	14010001
Remarks	3.345 CFS APRIL 15 TO NOVEMBER 1 2.765 CFS NOVEMBER 1 TO APRIL 15

State Water Rights Documentation

DISTRICT COURT, WATER DIVISION NO. 5, COLORADO

Case No. 86CW362

FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF
GRAND LAKE METROPOLITAN RECREATION DISTRICT

IN GRAND COUNTY

THIS MATTER, having come on for consideration upon the application of Grand Lake Metropolitan Recreation District ("applicant"), and the Water Judge having considered the pleadings, the files herein and the evidence presented before him, hereby makes the following findings of fact and conclusions of law and enters the following judgment and decree:

FINDINGS OF FACT

1. The name and address of the applicant are: Grand Lake Metropolitan Recreation District, P.O. Box 590, Grand Lake, Colorado 80447.

2. Applicant initiated this case by filing its application for water rights on December 31, 1986. Timely and adequate notice of the application was published as required by statute, and the Court has jurisdiction over the subject matter of this proceeding and over all parties affected hereby, whether they have appeared or not. None of the lands or water rights involved in this case are within the boundaries of any designated groundwater basin.

3. A timely statement of opposition was filed by Northern Colorado Water Conservancy District. No person or entity has sought to intervene. The time for filing statements of opposition and motions to intervene has expired. After referral to the Water Referee, the case was rereferred to the Water Judge by the Water Referee's Order dated March 2, 1987.

4. Applicant seeks a decree confirming and approving a conditional water right in the amount of 1.5 cfs. with an appropriation date of July 13, 1986, to be diverted at the Harbison Ditch on Tonahutu Creek in Grand County, Colorado. The legal description of the point of diversion is at a point on Tonahutu Creek in Section 32, T4N, R75W, 6th P.M., from whence the East Quarter Corner of Section 31, T4N, R75W, bears South 31°50' West, 2491.5 feet. The source of water is Tonahutu Creek, tributary to the North Inlet to Grand Lake, tributary to the Colorado River. The proposed use of the water is for irrigation of applicant's

public golf course of approximately 120 acres located in portions of the NE¼ NE¼ of Section 2, T3N, R76W, 6th P.M., and portions of the NW¼ NW¼, S½ NW¼, and NW¼ SW¼ of Section 1, T3N, R76W, 6th P.M., Grand County, Colorado.

5. The appropriation herein was initiated on July 13, 1986 by field inspection of the Harbison Ditch and headgate. Applicant has proceeded with diligence in the development of said appropriation and has established that the waters of Tonahutu Creek can and will be diverted and beneficially used and that the appropriation can and will be completed with diligence and within a reasonable time.

CONCLUSIONS OF LAW

6. Applicant is entitled by law to a decree confirming and approving the conditional water right described in the application.

JUDGMENT AND DECREE

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED THAT:

7. The application herein is granted.

8. The findings of fact and conclusions of law set forth above are fully incorporated into this decretal part by this reference.

9. The following-described conditional water right is hereby confirmed and approved:

Name of structure: Harbison Ditch

Legal description of point of diversion: At a point on Tonahutu Creek in Section 32, T4N, R75W, 6th P.M., from whence the East Quarter Corner of Section 31, T4N, R75W, bears South 31°50' West, 2491.5 feet.

Source of water: Tonahutu Creek, tributary to the North Inlet to Grand Lake, tributary to the Colorado River.

Date of initiation of appropriation: July 13, 1986.

Amount of water: 1.5 cfs., CONDITIONAL.

Use of water: Irrigation.

10. Applicant shall install and maintain such measuring devices as the Division Engineer may require for administration of this water right.

11. The priority herein awarded said Harbison Ditch water right shall be administered based upon the filing of the application herein in 1986 and shall be junior to the priorities for water rights for which applications were filed in previous years. As between all rights for which applications were filed in the same calendar year, priorities shall be determined by historical dates of appropriation and not affected by the date of entry of the ruling or decree.

12. The conditional water right herein awarded is hereby continued in full force and effect until February, 1992. If applicant desires to maintain such conditional water right, an application for a quadrennial finding of reasonable diligence shall be filed on or before February, 1992, or a showing made on or before such date that the conditional water right has become an absolute water right by reason of the completion of the appropriation.

Dated this 16th day of February, 1988.

BY THE COURT:

Hon. Gavin D. Litwiller
Water Judge
Water Division No. 5
State of Colorado

[illegible] of the foregoing mailed to all [illegible] of record-Water [illegible]-Div. Engineer-and [illegible]-Engineer-Date 2/22/89
Nancy Sterling

FILED IN DISTRICT COURT
WATER DIVISION 5, COLORADO

DEC 31 1986

CLERK

DISTRICT COURT, WATER DIVISION NO. 5, STATE OF COLORADO

Case No. 86CW362

APPLICATION FOR WATER RIGHTS (SURFACE)

CONCERNING THE APPLICATION FOR WATER RIGHTS OF
GRAND LAKE METROPOLITAN RECREATION DISTRICT

IN GRAND COUNTY

---

1. Name, address, telephone number(s) (residence and business) of applicant(s):

Grand Lake Metropolitan Recreation District
P. O. Box 590
Grand Lake, Colorado 80447
(303) 627-8226

WTR CASE 75.00
C/A TAX 1.00
86CW362 PJ #
CHECK 76.00
12/31/86 017629A000 14:23

2. Name of structure: Harbison Ditch.

3. Legal description of each point of diversion: At a point on Tonahutu Creek in Section 32, T4N, R75W, 6th P.M., from whence the East Quarter Corner of Section 31, T4N, R75W, bears South 31°50' West 2,491.5 feet.

4. Source: Tonahutu Creek, tributary to the North Inlet to Grand Lake, tributary to the Colorado River.

5. A. Date of initiation of appropriation: July 13, 1986.

   B. How appropriation was initiated: By field inspection of Harbison Ditch and headgate.

   C. Date water applied to beneficial use: Not applicable.

6. Amount claimed: 1.5 c.f.s., CONDITIONAL.

7. Use or proposed use: Irrigation of public golf course.

   A. If irrigation, complete the following:

   Number of acres historically irrigated: 120 acres.
   Proposed to be irrigated: 120 acres.

   Legal description of acreage: Portions of the NE¼ NE¼ of Section 2, T3N, R76W, 6th P.M., and portions of the NW¼ NW¼, S½ NW¼, and NW¼ SW¼ of Section 1, T3N, R76W, 6th P.M., Grand County, Colorado.

B. If non-irrigation, describe purpose fully: Not applicable.

8. Name and address of owner of land on which points of diversion and place of use(s) is (are) located):

Point of diversion:

United States Department of the Interior
National Park Service
c/o Superintendent
Rocky Mountain National Park and Shadow Mountain National Recreation Area
Estes Park, Colorado 80517

Place of use:

Grand Lake Metropolitan Recreation District
P. O. Box 590
Grand Lake, Colorado 80447

9. Remarks: None.

Respectfully submitted this 30th day of December, 1986.

MOSES, WITTEMYER, HARRISON AND WOODRUFF, P.C.

By Veronica A. Sperling
Charles N. Woodruff (Reg. No. 2772)
Veronica A. Sperling (Reg. No. 14310)
P. O. Box 1440
Boulder, Colorado 80306
(303) 443-8782

Attorneys for Applicant, Grand Lake Metropolitan Recreation District

Copy of Application Submitted to
Water Referee, Division Engineer
and State Engineer Date 12-31-86
Peggy Jordan
Deputy Clerk, Water Div. No. 5

VERIFICATION

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

HAROLD F. BISHOP, being first duly sworn upon oath, deposes and says that he is consulting water engineer for the Grand Lake Metropolitan Recreation District, applicant herein, that he has read the foregoing Application for Water Rights (Surface), knows the contents thereof, and that the same is true to the best of his knowledge and belief.

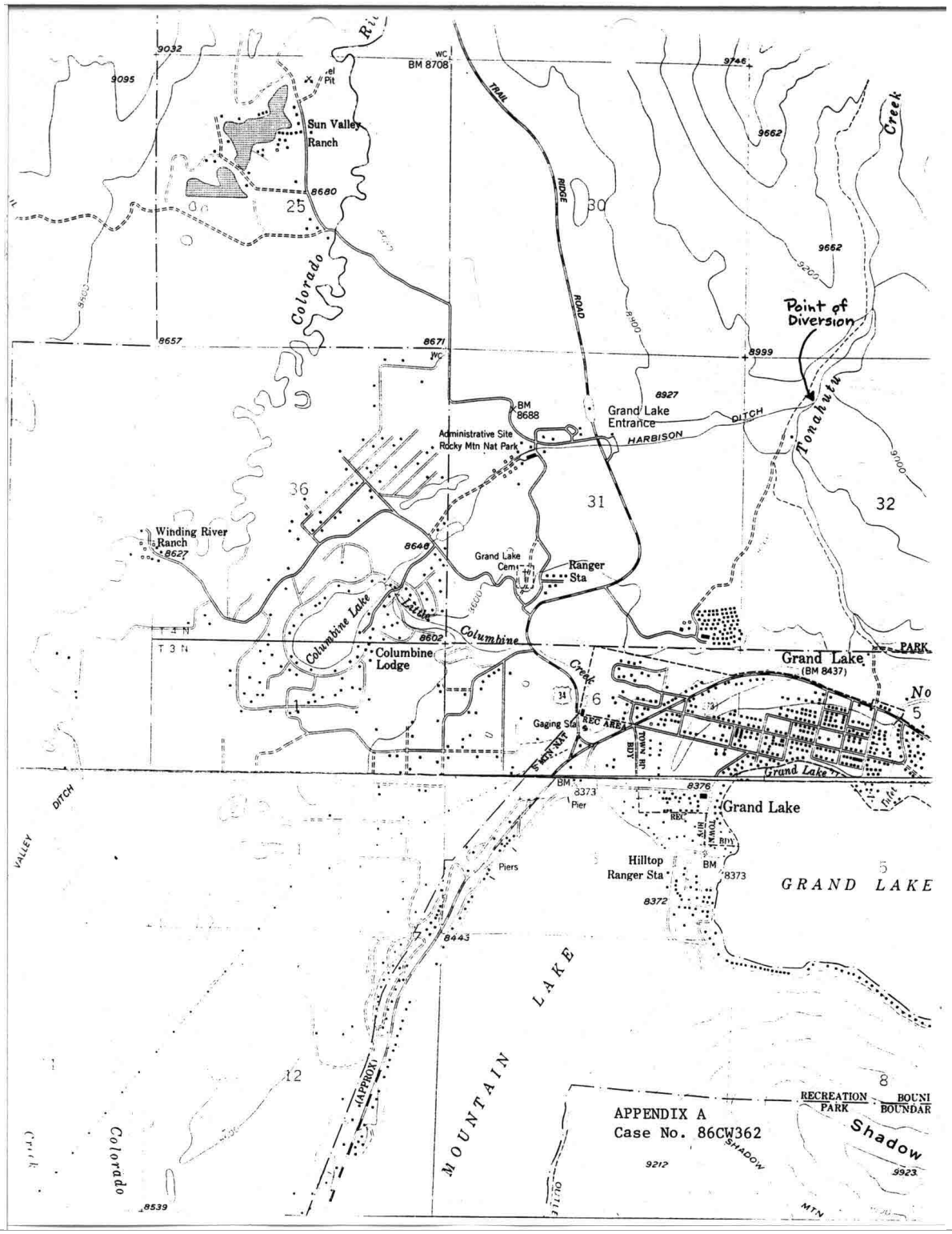
Harold F. Bishop
HAROLD F. BISHOP

Subscribed and sworn to before me this 29th day of December, 1986. Witness my hand and official seal.

Sharon K Bassett
Notary Public
Address: 12 Lakeside Lane
Denver, CO

My commission expires: 3/10/90

12-31-1986: appendix a: map regarding case no. 86cw362



58. 86CW342 GRAND LAKE METROPOLITAN RECREATION DISTRICT; P. O. Box 590 Grand Lake, Colorado 80447 (Charles N. Woodruff, Veronica A. Sperling, Moses, Wittemyer, Harrison and Woodruff, P.C., P.O. Box 1440, Boulder, CO 80306). Application for Water Rights (Surface) - Harbison Ditch, IN GRAND COUNTY. Legal description of each point of diversion: At a point on Tonahutu Creek in Section 32, T4N, R75W, 6th P.M., from whence the East Quarter Corner of Section 31, T4N, R75W, bears South 31°50' West 2,491.5 feet. Source: Tonahutu Creek, tributary to the North Inlet to Grand Lake, tributary to the Colorado River. Date of initiation of appropriation: July 11, 1986. How appropriation was initiated: By field inspection of Harbison Ditch and headgate. Date water applied to beneficial use: Not applicable. Amount claimed: 1.5 c.f.s., CONDITIONAL. Use or proposed use: Irrigation of public golf course. If irrigation, complete the following: Number of acres historically irrigated: 120 acres. Proposed to be irrigated: 120 acres. Legal description of acreage: Portions of the NE¼ NE¼ of Section 2, T3N, R76W, 6th P.M., and portions of the NW¼ NW¼, S½ NW¼, and NW¼ SW¼ of Section 1, T3N, R76W, 6th P.M., Grand County, Colorado. If non-irrigation, describe purpose fully: Not applicable. Name and address of owner of land on which points of diversion and place of use(s) is (are) located): Point of diversion: United States Department of the Interior, National Park Service, c/o Superintendent, Rocky Mountain National Park and Shadow Mountain National Recreation Area, Estes Park, Colorado 80517. Place of use: Grand Lake Metropolitan Recreation District, P. O. Box 590, Grand Lake, Colorado 80447. Remarks: None.

59. 86CW363 MIDDLE PARK WATER CONSERVANCY DISTRICT; c/o Stanley Cazier; P.O. Box 588; Granby, CO. Application for Water Storage Right - FRASER VALLEY DOWNSTREAM RESERVOIR and FRASER VALLEY UPSTREAM RESERVOIR in GRAND COUNTY. Legal description: Downstream Reservoir - on the Fraser River whence the Southwest corner of Section 6, T. 1 S., R. 75 W., 6th P.M. bears South 15°05' West 3,240 feet, Upstream Reservoir - on the Fraser River whence the Southwest corner of Section 18, T. 1 S., R. 75 W., 6th P.M. bears South 62°00' West 5,270 feet. Source: (both structures) FRASER RIVER. Appropriation: December 12, 1986 (for both structures). Amount: 170 a.f., conditional (each). Use: hydroelectric power production, replacement, recreation, domestic, irrigation, stock watering, industrial and municipal. (2 pages)

60. 86CW364 MIDDLE PARK WATER CONSERVANCY DISTRICT; c/o Stanley Cazier; P.O. Box 588; Granby, CO. Application for Water Rights (Surface) - FRASER VALLEY DOWNSTREAM DITCH NO. 1 and FRASER VALLEY UPSTREAM DITCH NO. 1 in GRAND COUNTY. Legal description: Downstream Ditch No. 1 - on the Fraser River whence the Southwest corner of Section 6, T. 1 S., R. 75 W., 6th P.M. bears South 15°05' West 3,240 feet. Upstream Ditch No. 1 - on the Fraser River whence the Southwest corner of Section 18, T. 1 S., R. 75 W., 6th P.M. bears South 62°00' West 5,270 feet. Source: (both structures) FRASER RIVER. Appropriation: December 12, 1986 (for both structures). Amount: 170 c.f.s., conditional (each). Use: hydroelectric power production, replacement, recreation, domestic, irrigation, stock watering, industrial and municipal. (2 pages)

61. 86CW365 WINTER PARK WATER AND SANITATION DISTRICT; c/o Stanley Cazier; P.O. Box 588; Granby, CO 80446. Application for Water Storage Rights - WINTER PARK RESERVOIR NO. 1 in GRAND COUNTY. Legal description: a parcel of land in T. 2 S., R. 75 W., 6th P.M., in unsurveyed portion of Arapahoe National Forest described as follows: commencing at Southwest corner, Section 35, T. 1 S., R. 75 W., 6th P.M., thence East along Township line 1,725 feet; thence South 8,850 feet to point of beginning; thence East 2,400 feet; thence South 1,400 feet; thence West 2,400 feet; thence North 1,400 feet to point of beginning. Source: Jim Creek, tributary to the the FRASER RIVER.. Appropriation: December 11, 1986. Amount: 25.0 a.f., conditional. Use: piscatorial and municipal. (2 pages)

62. 86CW366 WELTON J. BUMGARNER; c/o Stanley Cazier; P.O. Box 588; Granby, CO 80446. Application for Water Storage Right - BUMGARNER FISH RESERVOIR in GRAND COUNTY. Legal description: Northeast corner of Section 12, T. 1 N., R. 80 W., 6th P.M., dam is located 40 feet from East line and 50 feet from North line of said Section 12. Source: Troublesome Creek, tributary to the COLORADO RIVER.. Appropriation: December 20, 1986. Amount: 20.0 a.f., conditional. Use: fish propagation, piscatorial. (4 pages)

63. 86CW367 RED ROCKS LAND & LIVESTOCK CO.; c/o Scott Balcomb; P.O. Drawer 790; Glenwood Springs, CO 81602. Application for Water Rights (Surface) - RED ROCKS SPRING NO. 3 in GARFIELD COUNTY. Legal description: located in the SW1/4NW1/4 of Section 33, T. 5 S., R. 90 W., 6th P.M. at a point whence the West 1/4 corner of Section 32 bears South 77°06' West 5,780 feet. Source: unnamed wash, tributary to the COLORADO RIVER. Appropriation: June 1, 1984. Amount: 1.0 c.f.s., conditional. Use: irrigation and stock watering. (3 pages)

64. 86CW368 RED ROCKS LAND & LIVESTOCK CO.; c/o Scott Balcomb; P.O. Drawer 790; Glenwood Springs, CO 81602. Application for Water Rights (Surface) - RED ROCKS SPRING NO. 4 in GARFIELD COUNTY. Legal description: located in the SW1/4NE1/4 of Section 32, T. 5 S., R. 90 W. 6th P.M., at a point whence the West 1/4 corner of said Section 32 bears South 82°36' West 3,910 feet. Source: unnamed wash, tributary to the COLORADO RIVER. Appropriation: June 1, 1984. Amount: 1.0 c.f.s., conditional. Use: irrigation and stock watering. (3 pages)

65. 86CW369 ASPEN-PRESERVE LIMITED; c/o Kevin Patrick; 106 South Mill St., Suite 200; Aspen, CO 81611. Application for Water Rights - ASPEN PRESERVE POND SYSTEM and ASPEN-PRESERVE PIPELINE in PITKIN COUNTY. Legal description: Aspen - Preserve Pond System - the dam axis is located in Section 20, T. 10 S., R. 84 W. 6th P.M., The outlet of said pond is located at a point being South 87°31'03" West 1,935 feet from a brass cap for the North 1/4 corner of said Section 20, Aspen - Preserve Pipeline - a point situate in Section 17, T. 10 S., R. 84 W. 6th P.M., whence the Southwest corner of Section 17 bears South 50°6' West 1,667 feet (G. Lot 12, Section 17). Source: Roaring Fork River, tributary to the COLORADO RIVER. (for both structures). Appropriation: Aspen - Preserve Pond System - September 20, 1985, Aspen - Preserve Pipeline - October 10, 1986. Amount: Aspen - Preserve Pond System - 2.0 a.f., conditional, with the right to fill and refill when water is physically and legally available, Aspen - Preserve Pipeline - 0.067 c.f.s., conditional. Use: Aspen - Preserve Pond System - irrigation, piscatorial and fish and wildlife propagation, Aspen - Preserve Pipeline - irrigation and the delivery of water into storage in the Aspen-Preserve Pond System described herein. (5 pages)

66. 86CW370 WEST DIVIDE WATER CONSERVANCY DISTRICT; c/o Russell George, Stuver & George, P.C., P.O. Box 907, Rifle, CO 81650. Application for Approval of Plan for Augmentation. AVALANCHE CANAL and SIPHON. Source: AVALANCHE CREEK and CRYSTAL RIVER in PITKIN County. Decreed: June 20, 1958, in Case No. 4613. Legal Description: SW Corner, Section 7, Township 8 South, Range 84 West, bears N¼ 68°58' W. a distance of 1126.0 feet. RUEDI RESERVOIR. Source: FRYING PAN RIVER in PITKIN and EAGLE Counties. Decreed: June 20, 1968, in Case No. 4613. Legal Description: 1) Witness Corner at SW Corner, Section 9, Township 10 South, Range 88 West, bears N¼ 3°9' W. a distance of 546.0 feet; 2) W¼ Corner, Section 28, Township 9 South, Range 88 West bears N. 67°15' W. a distance of 4538.1 feet. The structure to be augmented consisting of domestic wells taking their water from aquifers tributary to the COLORADO RIVER. This plan affects 22 single-family dwelling units and 5 larger planned developments. Total projected depletion is 100 acre feet per year. The immediate needs for which this plan of augmentation has been developed are for those related to domestic users who are beyond the economic reach of existing municipal distribution systems and who do not have individual water rights of early enough priority to provide reasonable protection against a call from senior decrees on the mainstem of the COLORADO RIVER. The direct source of supply for these users is primarily from wells which have been or will be drilled into water-bearing formations which are tributary to the stream system and hence are subject to administration by the State Engineer. The plan of augmentation presented herein will supply replacement water to the mainstem of the COLORADO RIVER in amounts sufficient to preclude placing a call on the junior rights. The water rights of the subject users will divert under their permits or decrees which have been or will be adjudicated, as the case may be, so long as they are in priority. When any of these water rights would be called out by a senior right downstream on the COLORADO RIVER mainstem, waters will be furnished under the AVALANCHE CANAL and SIPHON water right in an amount necessary to make up for the stream depletions attributable to each right and the conveyance losses between the release of augmentation waters and the point of stream depletions. At such a time that the AVALANCHE CANAL and SIPHON right is out of priority, storage releases will be made from the storage volume which W.D.W.C.D. has available under contract out of RUEDI RESERVOIR. Stream carriage charges imposed on W.D.W.C.D.'s waters released for augmentation purposes shall be fixed at a constant rate of 9.5% for the first 14 days of release after call initiation and 0.4% for each day thereafter through termination of the augmentation release. W.D.W.C.D. proposes to change 10.0 c.f.s. of its AVALANCHE CANAL and SIPHON direct diversion water right to each of the structures to be augmented as alternate points of diversion to provide for the operations set forth in each water contract. At such times when the call on the COLORADO

12-01-1986: application for approval of appropriate right of exchange

FILED IN DISTRICT COURT
WATER DIVISION 5, COLORADO

OCT 01 1986

CLERK

DISTRICT COURT, WATER DIVISION 5, COLORADO

Case No. 86CW261

APPLICATION FOR APPROVAL OF APPROPRIATE RIGHT OF EXCHANGE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF COLUMBINE LAKE WATER AND SANITATION DISTRICT, A QUASI-MUNICIPAL CORPORATION, IN GRAND COUNTY.

1. Name, address, telephone number of Applicant:

Board of Directors, Columbine Lake Water and Sanitation District
c/o Stanley W. Cazier
Post Office Box 588
Granby, Colorado 80446
Telephone: 303-887-3376

WTR CASE 150.0(
C/A TAX 1.0(
86CW261 PJ #
CHECK 151.0(
10/01/86 014996A000 13:0(

2. Source of Exchange water:

Applicant has entered into the executed Water Allotment Contracts with the Middle Park Water Conservancy District for the water right to an annual entitlement of 85 acre feet. This water is a portion of the 3,000 acre feet which the Municipal Subdistrict, Northern Colorado Water Conservancy District has agreed to annually place in storage in Granby Reservoir, which is located upstream of the confluence of the Fraser and Colorado Rivers, on the Colorado River, Grand County, Colorado. Additional provisions of this Agreement are outlined in the Agreement Concerning the Windy Gap Project and the Azure Reservoir and Power Project, Dated and Signed April 30, 1980 and approved by Water Court, Water Division No. 5, Civil Action 1768, by Interloctory Decree dated October 27, 1980, and Supplement to Agreement of April 30, 1980, duly decreed in Case No. 85-CW-135.

3. Location to which exchange is to be made is to the points of diversion of the District, as follows:

(a) The headgate of the Harbison Ditch which is located at: Whence the E1/4 corner, Section 31, Township 4 North, Range 75 West of the 6th P.M., bears S-31°50'-W, 2491.5 feet.

(b) The headgate of the Columbine Lake Spring Number One which is located at: N75°34'W, a distance of 2607 feet from the SE corner of Section 36, Township 4 North, Range 76 West of the 6th P.M.

(c) The headgate of Columbine Lake Spring Number Two which is located at: N64°59'W, a distance of 2400 feet in the SE corner of Section 36, Township 4 North, Range 76 West of the 6th P.M.

(d) The headgate of Columbine Lake Spring Number Three which is located at: N55°29'W, a distance of 1940 feet in the SE corner of Section 36, Township 4 North, Range 76 West of the 6th P.M.

4. Description of Proposed Exchange:

Water derived from the Water Allotment Contract will be released from Granby Reservoir to the Colorado River on request of the Applicant, and pursuant to the conditions stated in the previously referenced agreements referred to in Paragraph 2 of this Application.

Water would be released when the diversions would be curtailed due to the senior call upon District's decreed junior water rights and said call cannot be met by District's other water rights or agreements. The amount of water released shall be based upon the depletions to the stream system caused by Applicant's diversions at the rate of five percent (5%) consumptive use.

5. The date claimed for this right is December 14, 1984, which is the date of the first contract between Middle Park Water Conservancy District and the Columbine Lake Water and Sanitation District.

Wherefore, the Applicant respectfully requests a decree approving this Exchange with an appropriation date of December 14, 1984.

RESPECTFULLY SUBMITTED this 24th day of September, 1986.

BAKER, CAZIER AND MCGOWAN

BY: _____
Stanley W. Cazier (4648)
Attorney for Columbine Lake
Water and Sanitation District
Post Office Box 588
Granby, Colorado 80446
Telephone: 303-887-3376

Copy of Application Submitted to
Water Referee, Division Engineer
& State Engineer-Date 10-01-86
_____
Clerk, Water Div. No. 5

STATE OF COLORADO)
) SS
COUNTY OF Jefferson)

The undersigned, Harold F. Bishop, being sworn, says: That the facts set forth in the foregoing Application for Approval of Appropriative Right of Exchabnge are true to the best of his knowledge, information and belief.

_____
Harold F. Bishop

00-00-0000: narrative to all persons interested in the water applications in water division no. 5: resume of the applications and am

ALL PERSONS INTERESTED IN THE WATER APPLICATIONS IN WATER DIVISION NO. 5

PURSUANT TO C.R.S., 37-92-302, AS AMENDED, You are notified that the following pages comprise a resume of the applications and amended applications filed with the Water Clerk for Water Division 5 during the month of October, 1986.

1. 86CW261 BOARD OF DIRECTORS, COLUMBINE LAKE WATER AND SANITATION DISTRICT; c/o Stanley Cazier; P.O. Box 588; Granby, CO 80446. Application for Approval of Appropriate Right of Exchange - GRAND COUNTY. Source of Exchange Water: Applicant has entered into the executed Water Allotment Contracts with the Middle Park Water Conservancy District for the water right to an annual entitlement of 85 acre feet. This water is a portion of the 3,000 acre feet which the Municipal Subdistrict, Northern Colorado Water Conservancy District has agreed to annually place in storage in Granby reservoir, which is located upstream of the confluence of the Fraser and Colorado Rivers on the Colorado River, Grand County, Colorado. Additional provisions of this agreement are outlined in the Agreement Concerning the Windy Gap Project and the Azure Reservoir and Power Project, Dated and Signed April 30, 1980 and approved by Water Court, Water Division No. 5, Civil Action 1768, by Interloctory Decree dated October 27, 1980, and Supplement to Agreement of April 30, 1980, duly decreed in Case No. 85CW135. Legal description: (a) The headgate of the Harbison Ditch which is located at: whence the E1/4 corner, Section 31, T. 4 N., R. 75 W. of the 6th P.M., bears South 31°50' West 2,491.5 feet. (b) The headgate of the Columbine Lake Spring Number One which is located at : North 75°34' West a distance of 2,607 feet from the SE corner of Section 36, T. 4 N., R. 76 W. of the 6th P.M. (c) The headgate of Columbine Lake Spring Number Two which is located at: North 64°59' West a distance of 2,400 feet in the SE corner of Section 36, T. 4 N., R. 76 W. of the 6th P.M. (d) The headgate of Columbine Lake Spring Number Three which is located at: North 55°29' West, a distance of 1,940 feet in the SE corner of Section 36, T. 4 N., Range 76 W of the 6th P.M. Description of Proposed Exchange: Water derived from the Water Allotment Contract will be released from Granby Reservoir to the Colorado River on request of the Applicant, and pursuant to the conditions stated in the previously referenced agreements referred to in this Application. Water would be released when the diversions would be curtailed due to the senior call upon District's decreed junior water rights and said call cannot be met by District's other water rights or agreements. The amount of water released shall be based upon the depletions to the stream system caused by Applicant's diversions at the rate of five percent consumptive use. The date claimed for this right is December 14, 1984, which is the date of the first contract between Middle Park Water Conservancy District and the Columbine Lake Water and Sanitation District. (3 pages)

2. 86CW262 ROBERT D. LINDNER, c/o David L. Harrison, Veronica A Sperling; Moses, Wittemyer, Harrison and Woodruff, P.C.; P. O. Box 1440; Boulder, CO 80306. Application for Change of Water Rights to Correct Decreed Points of Diversion to Conform With Actual Surveyed Points of Diversion - GUTZLER LAKE DITCH, GUTZLER RESERVOIR AND LAKE DITCH, GUTZLER NO. 2 DITCH, McCOY NO. 1 DITCH; McCOY NO. 1 DITCH FIRST ENLARGEMENT; McCOY NO. 2 DITCH; McCOY NO. 2 DITCH FIRST ENLARGEMENT in EAGLE COUNTY.

3. From previous decree:

(1) Gutzler Lake Ditch:

A. Date entered: November 20, 1890.
Case No.: None.
Court: District Court, Eagle County.

B. Decreed point of diversion: On the north bank of Lake Gutzler Creek at a point near the southeast corner SW¼ NW¼, Section 8, T2S, R81W 6th P.M.

C. Source: Lake Gutzler Creek, a tributary of Sheephorn Creek, a tributary of the Colorado River.

D. Appropriation date: June 30, 1887.
Amount: 0.8 c.f.s.

(2) Gutzler Reservoir and Lake Ditch:

A. Date entered: January 26, 1907.
Case No.: 448.
Court: District Court, Eagle County.

B. Decreed point of diversion: On the west bank of Lake Creek at a point in the NW¼ NW¼, Section 8, T2N, R81W 6th P.M.

C. Source: Lake Creek, also known as Lake Gutzler Creek, a tributary of Sheephorn Creek, a tributary of the Colorado River.

D. Appropriation date: October 10, 1901.
Amount: 0.8 c.f.s.

Div

IN THE DISTRICT COURT

IN AND FOR WATER DIVISION NUMBER 5

STATE OF COLORADO

CASE NO. W-2502

In the matter of the application for water rights of Columbine Lake Water and Sanitation District in the Colorado River or its tributaries (tributary involved: Little Columbine Creek in Grand County).

DECREE

This matter coming on for hearing upon the application of Columbine Lake Water and Sanitation District for Approval of its Plan for Augmentation this 21st day of July, 1975, and

The Applicant appearing and being represented by Counsel Timothy Quinn and the Court noting that no protests or statements in opposition have been filed and that no person has appeared to present evidence or testimony in opposition to the Application, and

The Court having considered the expert testimony, exhibits and arguments offered by the Applicant,

THE COURT FINDS THAT:

1. The Applicant is the owner of the following adjudicated water rights:

a. Breckon Pipeline (Tabulation No. 3918). Date of appropriation November 29, 1946; date of adjudication November 7, 1952; decreed amount 0.186 cfs for irrigation and domestic use. The historic use of water has been in the Columbine Lake Lodge and outlying buildings:

The location of the point of diversion is: Whence the S.E. corner Sec. 36, Tnp. 4N, R. 76W., 6th P.M. bears S. 42°37' E. 1875 feet.

b. Harbison Ditch (Tabulation No. 1583). Applicant owns 1.255 cfs of total decreed amount of 4.6 cfs for fishery

leaves 3.345cfs

use. Date of appropriation is November 1, 1894; date of adjudication July 21, 1911. The decree grants the entire flow of the Harbison Ditch from November 1 to April 15 in the succeeding year, and between April 15 and November 1 that water not used by the owners of the irrigation rights. The historic use of this water has been at Columbine Lake for fish culture. The location of the headgate is: Whence the E 1/4 corner, Section 31, Township 4 North Range 75 West of 6th P.M. bears S. 31°50'W. 2491.5 feet.

c. Harbison Ditch (tabulation No. 1835). The applicant owns 1.115 cfs of the total 4.46 cfs decreed for irrigation purposes. Date of appropriation is July 15, 1898; date of adjudication August 3, 1911. The historic use of this water has been for irrigation of more than 200 acres of pasture and hay meadow at the Harbison Ranch, now a part of the Rocky Mountain National Park. The consumptive use of the Harbison Ditch for this purpose is estimated at 1.0 acre-feet per acre per year. The location of the headgate is: Whence the E 1/4 corner, Section 31, Township 4 North Range 75 West of 6th P.M., bears S 31°50'W. 2491.5 feet.

leaves 3.345

d. Columbine Spring Number One. Applicant owns 0.22 cfs decreed for municipal, recreation and fish culture purposes. Date of appropriation is August 15, 1970; date of adjudication is June 18, 1975 (case no. 2456).

e. Columbine Spring Number Two. Applicant owns 0.16 cfs decreed for municipal, recreation and fish culture purposes. Date of appropriation is July 1, 1970; date of adjudication is June 18, 1975 (case no. 2457).

2. The Applicant has and will continue to apply the above Breckon Pipeline, Columbine Spring Number One and Columbine Spring Number Two to municipal, recreation, irrigation and fish culture uses. The Applicant seeks to terminate and abandon the use of the Harbison ditch irrigation right as historically used and to apply it to the uses set out for the Pipeline and springs

and specifically to utilize the irrigation right to augment the water of the Columbine Lake to maintain the flow of Little Columbine Creek to offset any depletion which may be caused by the municipal uses of the Pipeline and Springs. Depletion from the above uses will approximate 4.078 acre-feet per year at total build-out of the Columbine Lake Subdivision and an additional 2.01 acre-feet per year for adjacent developments. The depletion will be caused by the transfer of water from the municipal system directly to Shadow Mountain Lake rather than the historical flow to Shadow Mountain Lake via Little Columbine Creek. If the proposed Three Lakes Sewage Project is constructed, the sewage will be transported to a treatment facility south of Lake Granby.

3. The consumptive use of the development using the above waters will be less than the depletion due to the historic use for irrigation purposes which will be terminated. The waters from the Harbison ditch will augment the flow of the Little Columbine Creek to offset the above described depletion for municipal purposes.

4. There will be no injury to other appropriators in the Colorado River drainage and along Little Columbine Creek due to the proposed development.

IT IS THEREFORE ORDERED THAT:

1. The Application for Approval of Plan for Augmentation is hereby granted and approved.

2. The applicant will permanently terminate and abandon the irrigation use of 1.115 cfs of water from Harbison ditch and will apply the 1.115 cfs adjudicated on August 3, 1911 to the maintenance of the stream flow of Columbine Creek to offset depletion caused by the municipal, recreation and irrigation uses of the Breckon Pipeline and springs owned by the Applicant.

3. The Applicant's change of the use of said waters will not affect the Applicant's priority as set out in the decree of August 3, 1911 which was set out as priority No. 199 in Water District No. 51 and will date from July 15, 1898.

Done this 12th day of August, 1975 at Glenwood Springs, Colorado.

District Judge
Water Division No. 5
State of Colorado

Jan. 10, 1939.

FROM THE RECORDS OF THE GRAND COUNTY ABSTRACT COMPANY:

(1)

WATER DECREE IN DISTRICT NO. 51, DATED JULY 21, 1911.

In the matter of the priorities of right of the use of water for purposes other than irrigation in Water District No. 51, State of Colorado, AND

In the matter of the application of the Denver Northwestern & Pacific Railway Company for the Adjudication of the priorities of right to the use of water for purposes other than irrigation.

Petition filed and action started on the 23rd day of June, 1909.

The Harbison Ditch was awarded for purposes other than irrigation:

Priority No. 1.- Constructed Nov. 1, 1894, - 4.46 cu. ft. per second.

That said ditch is entitled to Priority No. 1, General Appropriations No. 1, and stream No. 1, and is claimed by Roy Adams, whose post office address is Grand Lake, Colorado; that it is a ditch used to provide a flow of fresh water for an artificial lake for trout culture, taking its supply of water from the Little North Inlet, sometimes known as Big Meadow Creek and the headgate is located on the west bank of said stream at a point whence the E¼ corner of Section 31, T 3 N, R 75 W, of 6th P. M. bears S 31° 50' W, 4966 feet.

It is hereby adjudged and decreed that there be allowed to flow into said river, for the use aforesaid and for the benefit of the parties lawfully entitled thereto, under and by virtue of such appropriation by construction and Priority No. 1, so much as will flow in said ditch, it being 3½ feet wide on the bottom, 4 feet wide at the water surface, depth of water 2 feet, and grade of 6.8 feet per mile, not to exceed 4.6 cu. ft. of water per second of time.

It is further ordered and decreed that the claimants of right under this decree shall be entitled to the entire flow of said ditch as aforesaid from the first day of November in each year to the 15th day of April in the succeeding year and from the 15th day of April to the 1st day of November in each year to so much thereof as shall be used by the owners of the irrigation rights of said ditch.

Decreed and signed on the 21st day of July, 1911, in District Court at Hot Sulphur Springs, Grand County, Colorado.

(2)

WATER DECREE IN DISTRICT NO. 51, DATED AUGUST 3, 1911.

In the matter of the application of George W. Carr for the adjudication of the priorities of right to the use of water for irrigation purposes in Water District No. 51.

Petition filed and action started on the 23rd day of June, 1909.

The Harbison Ditch was awarded for irrigation purposes:

Appropriation and Priority No. 199, in District No. 51.

Ditch No. 2, on North Inlet Stream.

That said Ditch is entitled to Priority in Water District No. 51, to number 199, of date of July 15, 1893, and shall be known as Ditch Number 2 on North Inlet to Grand Lake or Big Meadow Creek. The claimants are Roy Adams and Kate Harbison.

Said Ditch is about two miles in length and runs in a Southwesterly direction from its headgate. That it is a Ditch used for irrigation of 330 acres of land taking its supply of water from North Inlet of Grand Lake tributary to Grand River in Water District No. 51. The headgate of said Ditch is located on the west bank of North Inlet to Grand Lake or Big Meadow Creek at a point whence the E¼ corner of Section 31, T 4 N, R 75 W, 6th P. M., bears S 31° 50' W., 2491.5 feet. The size of said Ditch is: width at bottom 3.5 feet, at water surface 4 feet, depth of flow 2 feet, grade 6.8 feet per mile, and capacity 4.46 cu. ft. per second of time. The soil irrigated is loam and gravel subsoil.

It is therefore hereby ordered, adjudged, and decreed that there be allowed to flow into said Ditch from said North Inlet to Grand Lake for the use aforesaid and for the benefit of the parties lawfully entitled thereto under and by virtue of said appropriation by construction and priority in use, and in accordance with said Priority Numbers as herein established, to wit: Number 199, sufficient water to irrigate 330 acres of land, not to exceed 4.46 cu. ft. of water per second of time, being in full capacity of said Ditch.

Decreed and signed on the 3rd day of August, 1911, in the District Court at Hot Sulphur Springs, Grand County, Colorado.

07-16-1998: statement of claim to water right

No. 6134. DITCH STATEMENT.—Revised 1893.—For sale by W. F. Robinson & Co., Printers, 1514 Arapahoe St., Denver, Colo.

STATE OF COLORADO, } ss.
COUNTY OF Grand }

STATEMENT OF CLAIM TO WATER RIGHT.

Irrigation Division No. ..... Water District No. .....

H. M. Harbison & Kate Harbison

the owners of the following described ditch, in compliance with the requirements of the provisions of General Section No. 1720 of the General Statutes of the State of Colorado, approved April 20th, 1887, and the acts amendatory thereto, do hereby make this statement for filing:

1. The name of the owner of said ditch H. M. Harbison & Kate Harbison

whose Postoffice address is Grand Lake County Grand

2. The name of said ditch is The Harbison Ditch.

3. The headgate of said ditch is situated on the S W bank of North Inlet to Grand Lake from which stream said ditch diverts its supply of water, at a point whence the about 1/4 miles from the North corner of Section ....., in T. ..... of R. ..... W., bears ..... feet.

From the headgate the ditch runs in a general S W direction, as shown on the plat hereto attached and made a part of this statement.

4. The length of said ditch is Two miles.
5. The width of said ditch on the bottom is Four feet.
6. The width at the high water line is Six feet.
7. The depth of water carried in said ditch is Two feet.
8. The grade of said ditch is Twelve feet per mile.
9. The carrying capacity of said ditch is 40 cubic feet of water per second of time.
10. Work was commenced on said ditch on the 15th day of July A. D. 1894
11. The size of said ditch, as enlarged by this enlargement is 1 feet in width on the bottom, ... feet in width at high water mark, and ..... feet in depth.
12. The increased capacity arising from such enlargement is ..... cubic feet of water per second of time.
13. The work on said enlargement was commenced on the ~~15th day of July A. D. 1894~~

Witness our hands and seals this 16th day of July A. D. 1898

H. M. Harbison (SEAL)
Kate Harbison (SEAL)
..... (SEAL)
..... (SEAL)

STATE OF COLORADO, } ss.
COUNTY OF Grand }

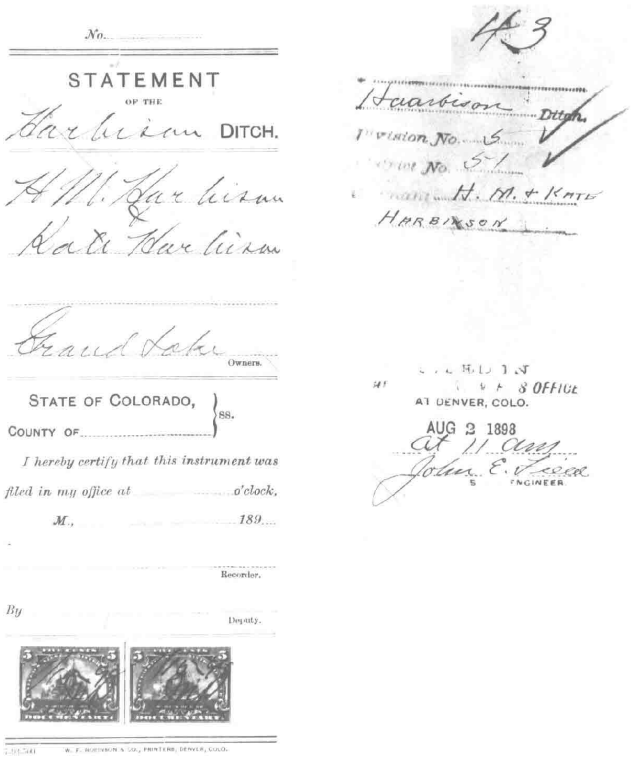
H. M. Harbison being first duly sworn, on oath says that he has read the above and foregoing statement and examined the plat thereto attached, and that the matters therein set forth are true of his own knowledge.

H. M. Harbison
Kate Harbison

Subscribed and sworn to before me this 16th day of July A. D. 1898

J. H. Underhill
County Clerk





No. ____

STATEMENT
OF THE
Harbison DITCH.

H. M. Harbison
&
Kate Harbison

Grand Lake
Owners.

STATE OF COLORADO,
COUNTY OF ____ } ss.

I hereby certify that this instrument was filed in my office at ____ o'clock, M., ____ 189__

Recorder.

By ____ Deputy.

W. F. ROBINSON & CO., PRINTERS, DENVER, COLO.

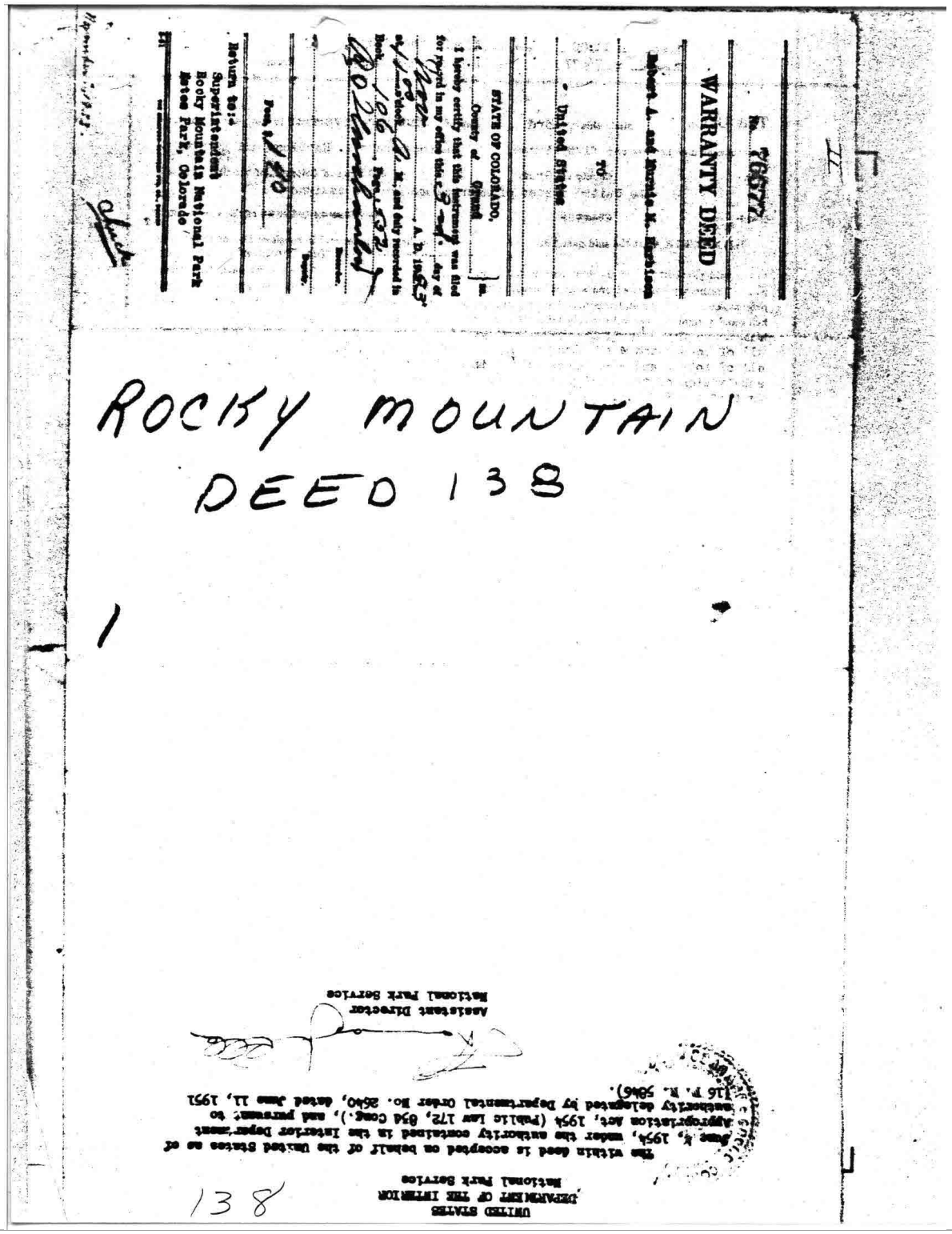
43

Harbison Ditch.
Division No. 6
Permit No. 51
Name H. M. & KATE HARBISON

STATE ENGINEER'S OFFICE
AT DENVER, COLO.
AUG 2 1898
A. H. Gray
John E. Field
STATE ENGINEER

Land History

11-03-1953: warranty deed 76677: rocky mountain deed 138



No. 76677

WARRANTY DEED

Robert A. and Bernice M. Harbison

to

United States

STATE OF COLORADO,
County of Grand } ss.
I hereby certify that this instrument was filed for record in my office this 3rd day of Nov. A. D. 1953 at 11:00 o'clock A. M. and duly recorded in Book 126 Page 532
Recorder.
By Deputy.

Fee $1.20

Return to:
Superintendent
Rocky Mountain National Park
Estes Park, Colorado

DEPARTMENT OF THE INTERIOR
National Park Service

The within deed is accepted on behalf of the United States as of June 8, 1954, under the authority contained in the Interior Department Appropriation Act, 1954 (Public Law 172, 83d Cong.), and pursuant to authority delegated by Departmental Order No. 2540, dated June 11, 1951 (16 F. R. 5986).

Assistant Director
National Park Service

138

ROCKY MOUNTAIN
DEED 138

1

11-03-1953: deed

Reception No. 76977 R.O. Throckmorton Recorder.

THIS DEED, Made this 3rd day of ~~October~~ November in the year of our Lord one thousand nine hundred and fifty three, between Robert A. Harbison and Murnie M. Harbison of the County of Grand and State of Colorado, of the first part, and the United States of Amerion and/or its assigns of the County of ~~Grand~~ and State of Colorado, of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of ~~Two Thousand~~ Two Thousand DOLLARS, to the said parties of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm, unto the said party of the second part, its heirs and assigns forever, all the following described lots or parcels of land, situate, lying and being in the County of Grand and State of Colorado, to-wit:

All of Lots 3 and 4 of Block 6; and all of Lots 5, 6, 7, and 8 of Block 7; and all of Lots 5 and 6 of Block 8; all in State Columbine Subdivision No. 2, a subdivision of the Southeast Quarter of Section 25, Township 4 North, Range 76 West of the 6th P.M. Subject to the reservations in the original patents.



TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said parties of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said party of the second part, its heirs and assigns forever. And the said parties of the first part, for themselves, their heirs, executors, and administrators, do covenant, grant, bargain, and agree to and with the said party of the second part, its heirs and assigns, that at the time of the ensealing and delivery of these presents, are well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatever kind or nature soever,

2

and the above bargained premises in the quiet and peaceable possession of the said party of the second part, its heirs and assigns against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Robert A. Harbison (SEAL)
Robert A. Harbison

(SEAL)

Murnie M. Harbison (SEAL)
Murnie M. Harbison

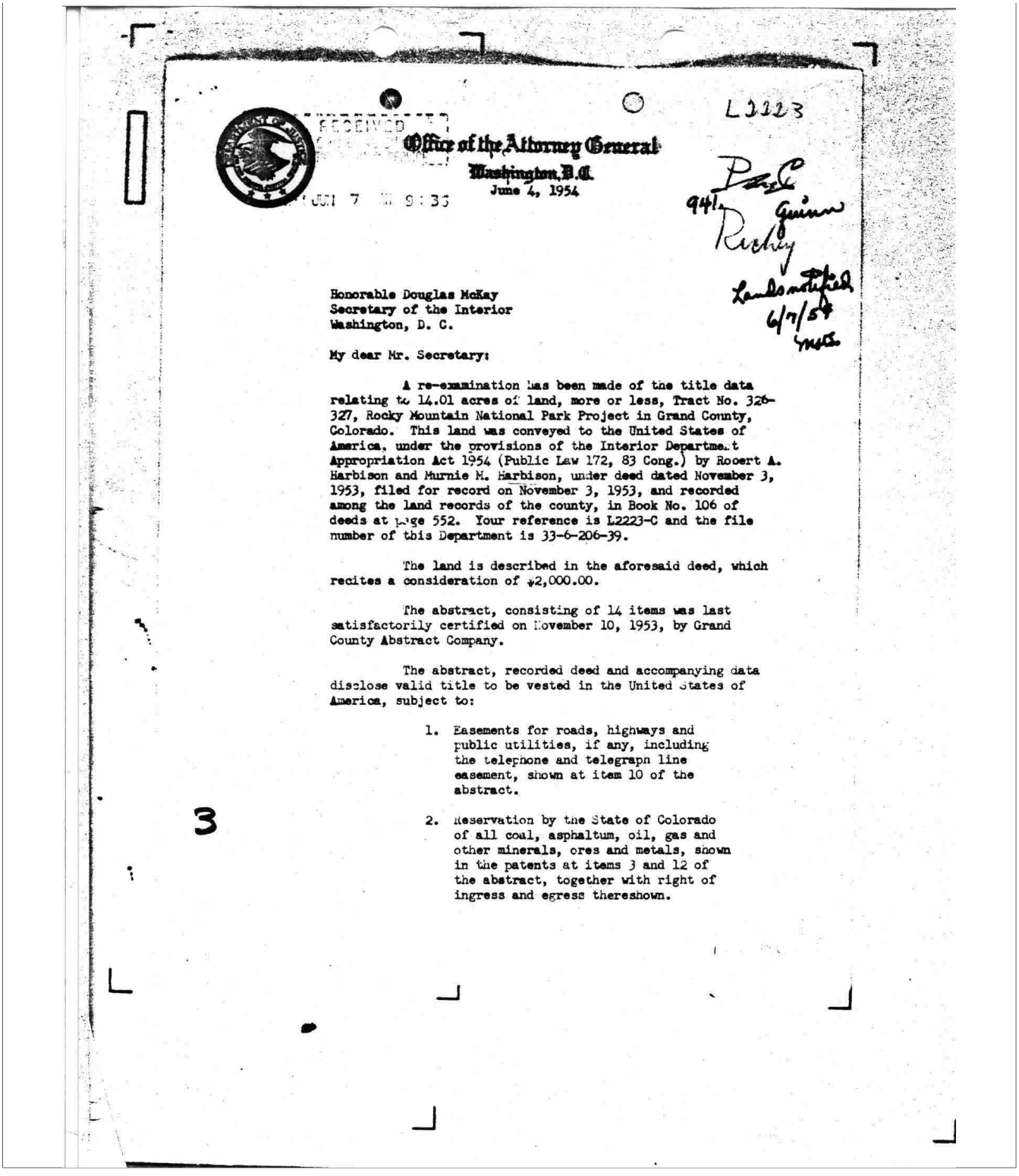
STATE OF COLORADO
County of Grand } ss.

The foregoing instrument was acknowledged before me this 3rd day of November
A.D. 19 53 by Robert A. Harbison and Murnie M. Harbison
My commission expires February 10, 19 55. Witness my hand and official seal.

[illegible]
Notary Public.
CHARLES W. [illegible], Notary Public
My Commission expires Feb. 10, 1955

No. 982. WARRANTY DEED.—For Photographic Record.
—The Bradford-Robinson Ptg. Co., Mfrs. Robinson's Legal Blanks, 1546 Stout St., Denver, Colo.

06-04-1954: letter to secretary of the interior from office of the attorney general regarding re-examination of title data relating to 14



RECEIVED
JUN 7 11 9:35

Office of the Attorney General
Washington, D.C.
June 4, 1954

L2223

941. P. & C. Quinn Rocky

Lands notified 6/7/54 mas

Honorable Douglas McKay
Secretary of the Interior
Washington, D. C.

My dear Mr. Secretary:

A re-examination has been made of the title data relating to 14.01 acres of land, more or less, Tract No. 326-327, Rocky Mountain National Park Project in Grand County, Colorado. This land was conveyed to the United States of America, under the provisions of the Interior Department Appropriation Act 1954 (Public Law 172, 83 Cong.) by Robert A. Harbison and Murnie M. Harbison, under deed dated November 3, 1953, filed for record on November 3, 1953, and recorded among the land records of the county, in Book No. 106 of deeds at page 552. Your reference is L2223-C and the file number of this Department is 33-6-206-39.

The land is described in the aforesaid deed, which recites a consideration of $2,000.00.

The abstract, consisting of 14 items was last satisfactorily certified on November 10, 1953, by Grand County Abstract Company.

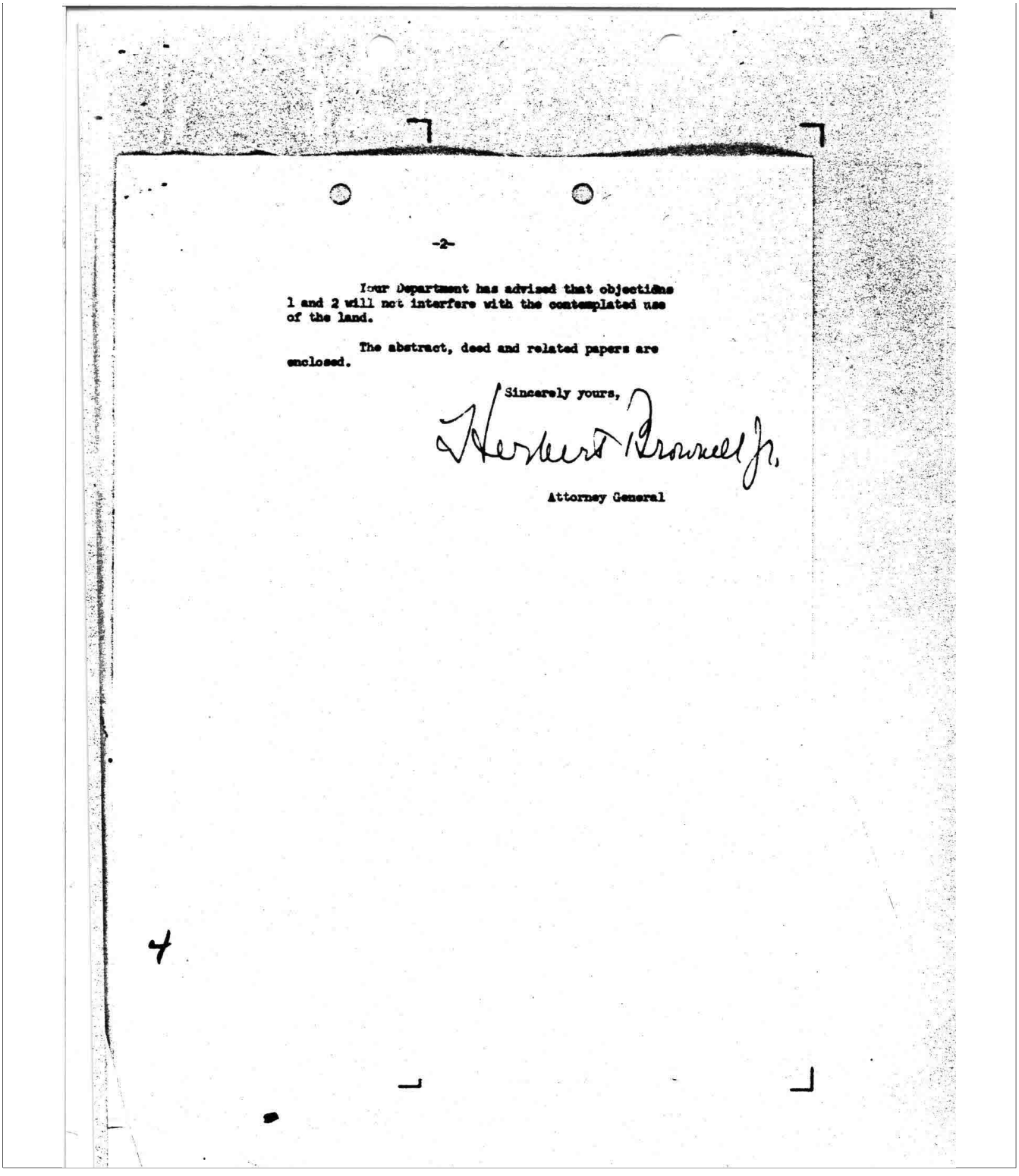
The abstract, recorded deed and accompanying data disclose valid title to be vested in the United States of America, subject to:

1. Easements for roads, highways and public utilities, if any, including the telephone and telegraph line easement, shown at item 10 of the abstract.

2. Reservation by the State of Colorado of all coal, asphaltum, oil, gas and other minerals, ores and metals, shown in the patents at items 3 and 12 of the abstract, together with right of ingress and egress thereshown.

3

06-04-1954: letter to secretary of the interior from office of the attorney general regarding re-examination of title data relating to 14



Your Department has advised that objections 1 and 2 will not interfere with the contemplated use of the land.

The abstract, deed and related papers are enclosed.

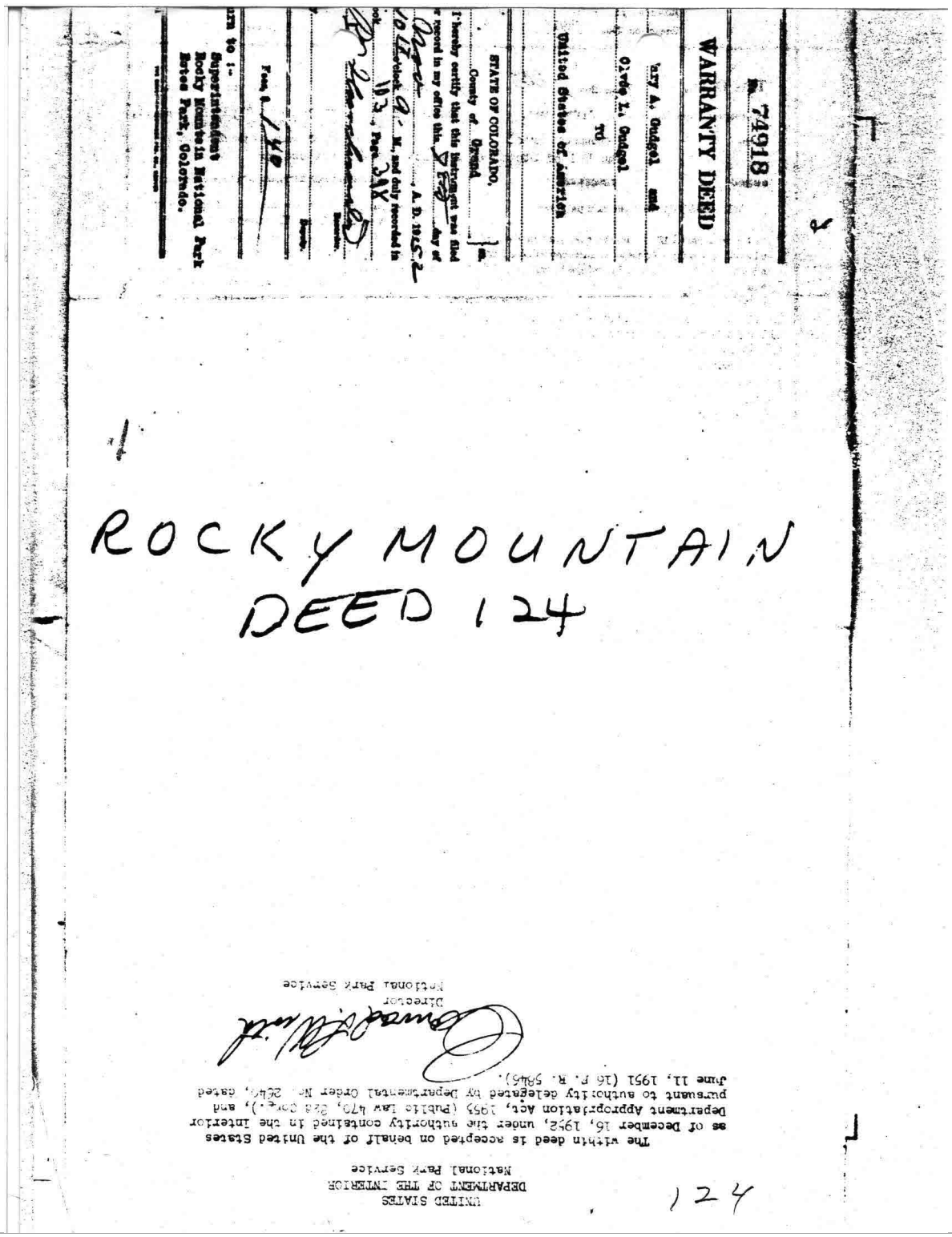
Sincerely yours,

Herbert Brownell Jr.

Attorney General

4

11-07-1952: warranty deed 74918: rocky mountain deed 124



74918

WARRANTY DEED

...7 A. Ondegl and
Olivia L. Ondegl
Td
United States of America

STATE OF COLORADO,
County of Grand } ss.
I hereby certify that this instrument was filed for record in my office this ... day of ... A. D. 1952, at ... o'clock ... M., and duly recorded in Book ... Page ...
Fee, $ ...
Recorder.
Deputy.

Return to:-
Superintendent
Rocky Mountain National Park
Estes Park, Colorado.

ROCKY MOUNTAIN
DEED 124

UNITED STATES
DEPARTMENT OF THE INTERIOR
National Park Service

The within deed is accepted on behalf of the United States as of December 16, 1952, under the authority contained in the Interior Department Appropriation Act, 1953 (Public Law 470, 82d Cong.), and pursuant to authority delegated by Departmental Order No. 2240, dated June 11, 1951 (16 F. R. 5845).

Director
National Park Service

124

11-07-1952: deed

Recorded at 10:17 o'clock A M. Nov. 7, 1952
Reception No. 74918 R. O. Throckmorton corder.

THIS DEED, Made this 7th day of November in the year of our Lord one thousand nine hundred and fifty two, between Mary A. Gudgel and Clyde L. Gudgel, (sometimes known as Gudgell) of the County of Grand and State of Colorado, of the first part, and The United States of America and /or its assigns [redacted], of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of - - - - - - - - - Twenty Eight Thousand DOLLARS, to the said parties of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm, unto the said party of the second part, its heirs and assigns forever, all the following described lots or parcels of land, situate, lying and being in the County of Grand and State of Colorado, to-wit:

In the Southeast Quarter of Section 25, Township 4 North, Range 76 West of 6th P.M.; All of Block 5 of State Columbine Subdivision No.2 (a plat of record), lying East of the West bank of the Colorado River sometimes known as the North Fork. Subject to the mineral rights reserved to the State of Colorado in the original patent.

In Section 31, Township 4 North, Range 75 West of 6th P.M.; All of South half of North half of the Northwest Quarter, the Southwest Quarter of the Northwest Quarter, and the North half of Southeast Quarter of the Northwest Quarter; except the U. S. Highway No.34 right-of-way, 200 feet in width, formerly deeded to the United States. Subject to the old County road right-of-way, 15 feet on each side of the center line of said road, as now constructed. Subject to the 5 feet in width Harbison Ditch right-of-way as now constructed. Together with all water rights appurtenant to or used in connection with this tract of land, including the right to divert 0.58 cubic feet of water per second of time from Tonahutu Creek, also known as Big Meadows Creek, through the Harbison Ditch, granted by Decree dated August 3, 1911, as Priority 199, with date of July 15, 1893.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said parties of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said party of the second part, its heirs and assigns forever. And the said parties of the first part, for themselves, their heirs, executors, and administrators, do covenant, grant, bargain, and agree to and with the said party of the second part, its heirs and assigns, that at the time of the ensealing and delivery of these presents, are well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatever kind or nature soever



and the above bargained premises in the quiet and peaceable possession of the said party of the second part, its heirs and assigns against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Mary A. Gudgel (SEAL)
Mary A. Gudgel, sometimes known as Mary A. Gudgell. (SEAL)
Clyde L. Gudgel (SEAL)
Clyde L. Gudgel, sometimes known as Clyde L. Gudgell.

STATE OF COLORADO
County of Grand ss.

The foregoing instrument was acknowledged before me this 7th day of November, A. D. 1952, by Mary A. Gudgel and Clyde L. Gudgel of Grand Lake, Colorado.
My commission expires [illegible], 19[illegible] Witness my hand and official seal.

R O Throckmorton
County Clerk.

No. 932. WARRANTY DEED—Par. Bibliographic Record.
The Bradford-Robinson Ptg. Co., Mfrs. Robinson's Legal Blanks, 1846 Stout St., Denver, Colo.

12-16-1952: letter to secretary of the interior from attorney general regarding examination of title data relating to 131.51 acres of la

Office of the Attorney General
Washington, D.C.

December 16, 1952

12/19

392

Honorable Oscar L. Chapman
Secretary of the Interior
Washington 25, D. C.

My dear Mr. Chapman:

An examination has been made of the title data relating to 131.51 acres of land, more or less, Harbison Ranch Tracts Nos. 325 and 336, Rocky Mountain National Park Project in Grand County, Colorado. This land was conveyed to the United States of America under the provisions of existing legislation, by Mary A. Gudgel and Clyde L. Gudgel, under deed dated November 7, 1952, filed for record on November 7, 1952, and recorded among the land records of the county in Book 103 of Deeds at page 398. Your reference is L 2223 ROMO-C and the file number of this Department is 33-6-206-32.

The land is described in the aforesaid deed, which recites a consideration of $28,000.00.

The abstract, consisting of two parts, designated as Nos. 1274 and 1034-A, was last satisfactorily certified on November 10, 1952, by Grand County Abstract Company.

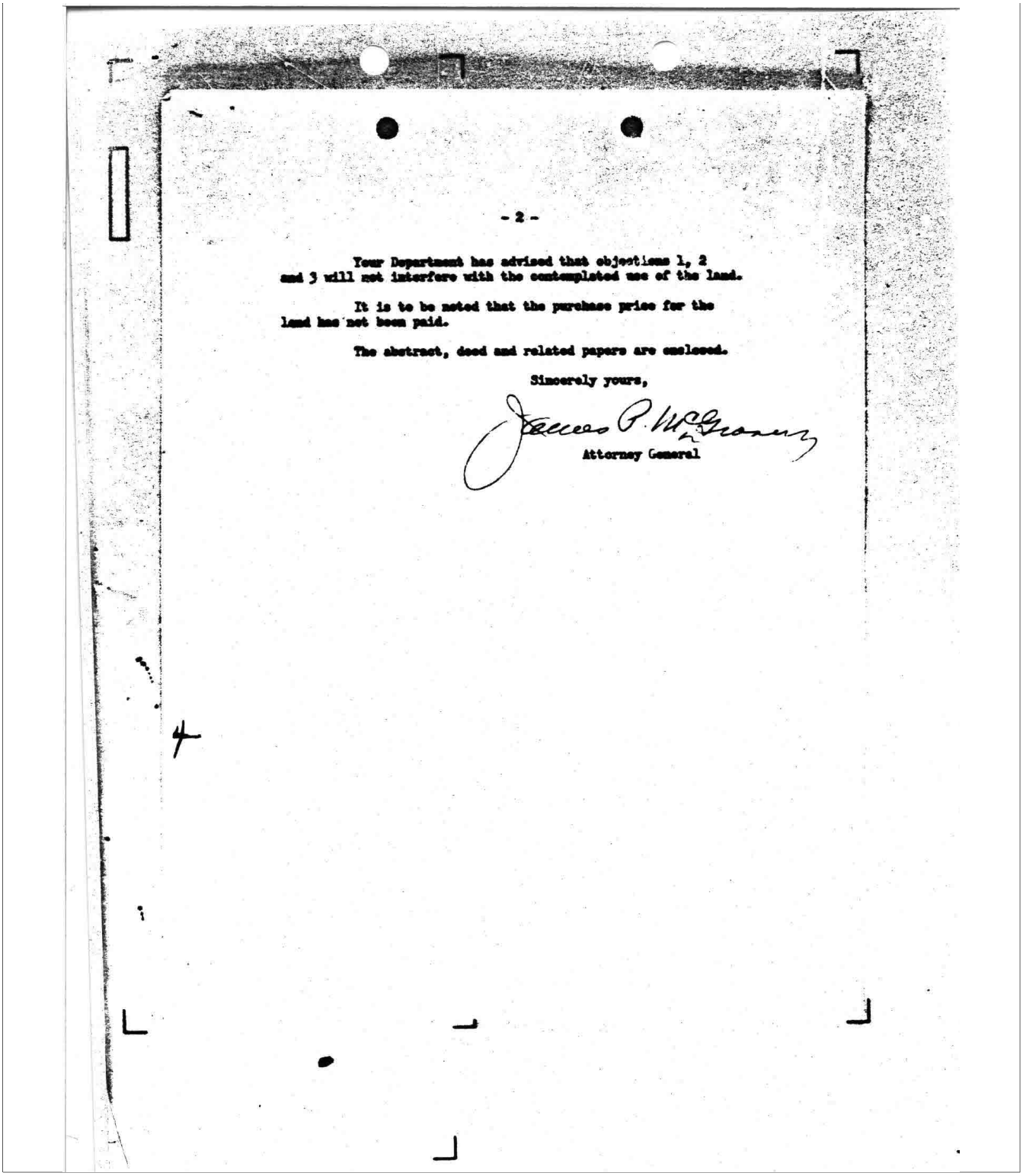
The abstract, recorded deed, and accompanying data disclose valid title to be vested in the United States of America, subject to:

1. Easements for public roads, rights of way and utilities, if any, not shown of record, including the utility easements noted at items 2 and 22 in abstract No. 1034-A.

2. Mineral rights to the State of Colorado as contained in the patent noted at item 3 of abstract No. 1274.

3. Rights of third persons, if any, under the reservations contained in the patents shown at items 4 and 5 of abstract No. 1034-A.

12-16-1952: letter to secretary of the interior from attorney general regarding examination of title data relating to 131.51 acres of la



Your Department has advised that objections 1, 2 and 3 will not interfere with the contemplated use of the land.

It is to be noted that the purchase price for the land has not been paid.

The abstract, deed and related papers are enclosed.

Sincerely yours,

James P. McGranery

Attorney General

4

07-31-1939: land ownership record: decreed water right priority no. 199; deed 50

Form NPS-L-1

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

LAND OWNERSHIP RECORD

State Colorado

Tract No. _____

County Grand

Deed No. 50

Civil Subdivision _____ Area _____ acres _____ Rocky Mountain Nat. Park
Name of Park or Area

Area based on survey of _____ Date July 31, 1939 Columbine Lake
Section of Park or Area (not in park)

Legal Description: Decreed Water Right - Priority No. 199.

Method of Acquisition: Purchase Appropriation or Source of funds: Water Rights

Cost ~~Appraised or estimated value~~ $2,500.

Acquired from: J. W. Kelley

Accepted by Secretary (X) Opinion of Att'y. Gen.-title in U. S. ( ) date: Dec. 23, 1940

Physical Characteristics: A right to divert 1.115 sec. ft. of water from Tonahutu Creek for fish cultural purposes at Columbine Lake.

Improvements on Land at time of Acquisition:

Existing or outstanding special use permits, reservations, rights, or rights of way: Other interests in same rights owned by Harbison Estate of which part were acquired by United States under Deed 49.

Report Based on: Records of Water Rights Section

Prepared by: A. van V. Dunn, Hydraulic Engineer date: 11/23/43

Map References: See maps with Deeds 49 and 50.

Remarks: This right must be moved back on federal land by adjudication as soon as plan of use is completed.

25348

11-23-1943: land ownership record: deed no. 49

Form NPS-L-1

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

LAND OWNERSHIP RECORD

State Colorado — Tract No. ———

County Grand — Deed No. 49

Civil Subdivision ——— Area 226.30 acres ——— Rocky Mountain Nat. Park (Name of Park or Area)

Area based on survey of ——— Date Aug. 17, 1939 to Dec. 11, 1939 — Harbison Ranch near (Section of Park or Area) Grand Lake

Legal Description: Parts of Sections 30 & 31, T. 4 N., R. 75 W., 6 P. M.

Method of Acquisition: Purchase — Appropriation or Source of funds: Water Rights and other Federal

Cost ~~(Purchase price or estimated value)~~ $12,372.70

Acquired from: Robert A. Harbison et al.

Accepted by Secretary (X) Opinion of Att'y. Gen.–title in U. S. ( ) date: Aug. 17, 1940

Physical Characteristics: 65 acres of timber land and 140 acres irrigated land, remainder variable

Improvements on Land at time of Acquisition: Ranch buildings, summer cottages, irrigation ditches and appurtenant water rights — Decreed Priority 199 to divert 1.65 sec. ft. of water from Tonahutu Creek for irrigation purposes.

Existing or outstanding special use permits, reservations, rights, or rights of way: Part interest in Harbison Ditch and water rights owned by J. W. Kelley.

Report Based on: Records of Water Rights Section

Prepared by: A. van V. Dunn, Hydraulic Engineer — date: 11/23/43

Map References: Maps attached to deed

Remarks: Water rights to be amended by Water Rights Section.
This deed includes conveyance of 205 acres of land & said water rights under one transaction, and remainder of land for road right of way under earlier transaction,

25348

12-23-1940: letter to office of the solicitor from assistant solicitor regarding title re-examined and found satisfactory

DEPARTMENT OF THE INTERIOR
Office of the Solicitor

Title re-examined and found satisfactory.

For the Solicitor,

Thurman Sheam
Assistant Solicitor.

DEPARTMENT OF THE INTERIOR
Office of the Secretary

DEC 23 1940

Title accepted as recommended.

Oscar L. Chapman
Assistant Secretary.

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12-16-1940: memorandum to assistant secretary from acting director regarding title papers covering the purchase of certain water

Deed No. 50
Water Rights

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE



December 16, 1940.

MEMORANDUM for the Assistant Secretary:

There are transmitted herewith the title papers covering the purchase of certain water rights within the Rocky Mountain National Park from James W. Kelley, sometimes known as J. W. Kelley, for a consideration of $2,500.00, in accordance with the terms of contract No. I-lp-15885, approved May 2, 1939.

Funds to make this purchase were made available by the Interior Department Appropriation Act for the fiscal year 1939 (52 Stat. 335).

The Acting Solicitor has reported on the title to the water rights involved and a copy of his opinion thereon dated October 17, 1940 (M.30891), setting forth certain requirements to be met before the title would be approved, is enclosed. It appears that all the requirements of the opinion have been met.

It is therefore respectfully recommended that the title be accepted by you on behalf of the United States if upon re-examination by the Solicitor it is found to be satisfactory.

Acting Director.

Enclosure 2668454

1

CERTIFICATE OF INSPECTION AND POSSESSION

I, DAVID H. CANFIELD, Superintendent, Rocky Mountain National Park, Department of the Interior, hereby certify that on the 10th day of October 1940, I made a personal inspection of those certain water rights situate in the County of Grand, State of Colorado, being purchased from James W. Kelley, sometimes known as J. W. Kelley, under the terms of contract No. I-lp-15885 approved by the Department on May 2, 1939 and described in the deed from James W. Kelley to the United States, recorded in the Office of the Recorder, Grand County, Colorado, in book 88 at page 280, and generally described as a right to divert and use 1.115 cubic feet of water per second of time of the waters of Little North Inlet Stream, sometimes called Big Meadow Creek or Tonahutu Creek and/or its tributaries, within the State of Colorado;

That I am fully informed as to the location of the said water rights; that I found no evidence of any work or labor having been performed or any materials having been furnished in connection therewith; and that I made careful inquiry of the above-named vendor and of the occupants of the land served by the water rights, and in the vicinity, and ascertained that nothing had been done in connection with said water rights within six months that would entitle any person to a lien against said water rights for work or labor performed or materials furnished;

That I also made inquiry of the above-named vendor and of the occupants of the land served by the water rights, and in the vicinity, as to their rights of possession and the rights of possession of any person or persons known to them, and neither found any evidence nor obtained any information showing or tending to show that any person had any rights of possession or other interest in said water rights adverse to the rights of the above-named vendor or the United States of America;

That I was informed by the above-named vendor that to the best of his knowledge and belief there is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said water rights;

That there is no outstanding right whatsoever in any person to the possession of said water rights nor any outstanding right, title, interest, lien or estate, existing or being asserted in or to said water rights except such as are disclosed and evidenced by the public records.

Dated this 7th day of December, 1940.

David Canfield

Superintendent
Rocky Mountain National Park

1-

12-28-1940: invoice

I N V O I C E

Date December 28, 1940.

UNITED STATES OF AMERICA

To

JAMES W. KELLEY, sometimes
known as J. W. KELLEY.

Dr.

For certain water rights within the Rocky Mountain National Park, Colorado, conveyed to the United States by James W. Kelley, sometimes known as J. W. Kelley, by deed dated July 31, 1939, and recorded on June 18, 1940 in the Recorder's Office of Grand County, Colorado, in Book 88 at Page 280, in accordance with contract No. I-lp-15885, approved May 2, 1939. . . . . $ 2,800.00

I hereby certify that the above account is correct and just and that payment therefor has not been received.

James W. Kelley

J. W. Kelley

James W. Kelley, sometimes known as J. W. Kelley.

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06-18-1940: memorandum to director from acting superintendent regarding contract covering the purchase to certain water rights

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
ROCKY MOUNTAIN NATIONAL PARK
ESTES PARK, COLO.

JUN 22 1940

June 18, 1940

REGISTERED

Memorandum for the Director:

With reference to the contract entered into between the United States and the heirs to the Harbison estate covering the purchase of certain water rights and land, there are enclosed Abstract of Title No. 1034 and Quit Claim Deed from J. W. Kelley to the United States No. 53643.

We believe these instruments will settle all questions involving the purchase from the Harbison estate. Your last inquiry raised the point of whether or not the Harbisons were conveying a year-round water right to the Government. In order to satisfy this requirement, J. W. Kelley secured a decree from the County Court confirming his title in the water right known as Priority No. 1 of No. 1. By quit claim deed dated June 10, J. W. Kelley conveyed 1.65 second feet of water to the United States. Because of many complications and delays, it did not seem feasible nor practicable to have Mr. Kelley convey the winter water right to the Harbisons who, in turn, would convey it to the United States - hence Mr. Kelley quit claimed direct to the Government. The abstract has been extended to cover these details.

We sincerely hope that this transaction will clear the decks and make way for the acceptance of title by the Department for we are extremely anxious to get section 1-D-2 of the Trail Ridge Road constructed this summer if at all possible. Anything you can do to facilitate action to this end will be very helpful.

John L. McLaughlin
Acting Superintendent.

P.S. It will be noted that Mr. Kelley under date of April 22 also quit claimed to the United States any interest he might have in the 1.65 second feet of water the Harbisons are conveying, designated as Priority No. 199.

cc Region II
Regional Attorney Taylor

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No. 831. QUIT CLAIM DEED.—The Bradford-Robinson Ptg. Co., Mfrs. Robinson's Legal Blanks, Denver.

This Deed, *Made this* 22 nd *day of* April *in the year of our Lord one thousand nine hundred and* forty *between*

J. W. Kelley

of the County of Grand *and State of Colorado, of the first part, and*

UNITED STATES OF AMERICA

~~of the County of and State of Colorado~~, *of the second part,*

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One and No/100 - *DOLLARS, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed and QUIT-CLAIMED, and by these presents do es remise, release, sell, convey and QUIT-CLAIM unto the said party of the second part, its / successors ~~heirs~~ and assigns forever, all the right, title, interest, claim and demand which the said party of the first part has in and to the following described* **Water Right Interest** *situate, lying and being in the County of* Grand *and State of Colorado, to-wit:*

All of 1.65 cubic feet of water per second of time of the **one half interest** in the right acquired under and by virtue of the laws of the **State** of Colorado to divert from the waters of Little North Inlet Stream, sometimes called Tonahuta Creek or Big Meadows Creek, **4.46** cubic feet of water per second of time for use during the entire year, said **right** having a priority of **No.199** as determined and established by decree of the District Court of Grand County, **State** of Colorado, in an action entitled "In The Matter Of The **Adjudication** Of Priorities To The Right To The Use Of Water For **Irrigation** and Other Purposes in Water District No.51, In The State Of Colorado." On application of Roy Adams and Kate Harbison, confirming said right unto Roy Adams and **Kate** Harbison which said decree was made on August 3, 1911 and entered in Volume 1 at page 209, Water Adjudication Records of the District Court of Grand County, State of Colorado.

This quit claim deed is for the purpose of separating and distinguishing the interests of the parties to the said water right, the said J.W.Kelley being the successor in title to Roy Adams. The interest herein quit claimed is the interest acquired by the grantee herein from the Estate of Kittie Harbison. The grantor herein still retains 2.23 cubic feet per second of time of said water right and the Harbison **Estate** retains .58 cubic feet thereof.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part, its / successors ~~heirs and~~ assigns forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his *hand and seal the day and year first above written.*

J. W. Kelley (SEAL)

(SEAL)

(SEAL)

(SEAL)

DISTRICT OF COLORADO) ss.

Signed, Sealed and Delivered in the Presence of

The foregoing was Acknowledged, and before me this 22nd day of April A.D.1940, by J.W.Kelley.

Wayne H. Hackett

United States Commissioner
Rocky Mountain National Park.

04-22-1940: deed

STATE OF COLORADO, } ss.
In the COUNTY OF Denver }

I, Wayne H. Hackett, United States Commissioner, Rocky Mountain National Park, *[redacted], in the State aforesaid, do hereby certify that

J. W. Kelley

who is personally known to me to be the person whose name is subscribed to the foregoing Deed, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and official seal this 22nd day of April, A. D. 1940.

My commission expires

Wayne H. Hackett
Wayne H. Hackett
United States Commissioner
Rocky Mountain National Park

PROOF READ
58643

QUIT CLAIM DEED

TO

STATE OF COLORADO, } ss.
COUNTY OF Lemay }

I hereby certify that this instrument was filed for record in my office at 11:30 o'clock A. June 10, 1940 and is duly recorded in book 88 at 280.

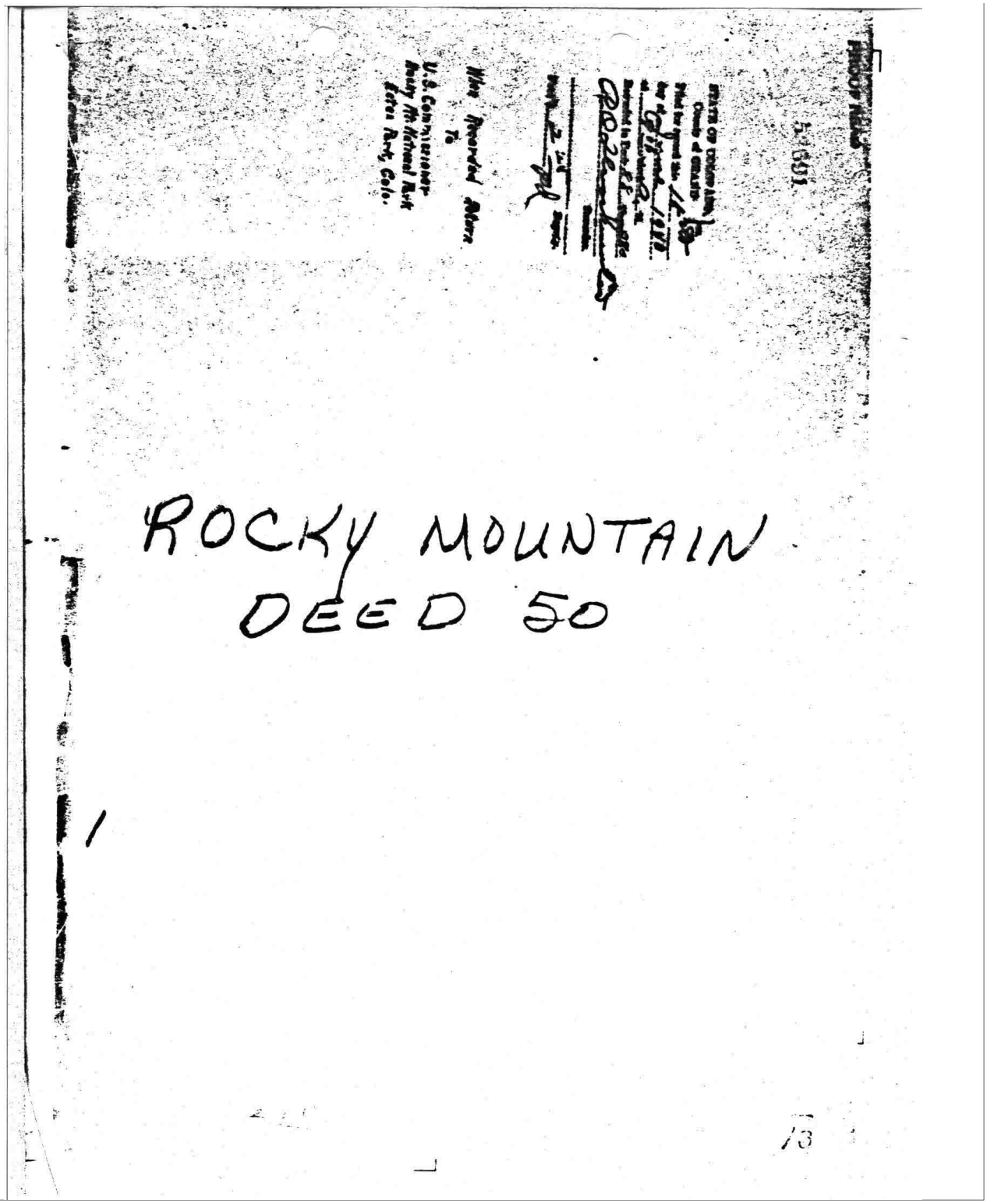
R. D. Crumbaker Recorder

By ____ Deputy

Fees, $2.50 Pd.

Brice Sleight
Return to Superintendent Mt National Park Rocky Estes Park Colo

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ROCKY MOUNTAIN
DEED 50

07-00-1939: deed

THIS DEED, made this 29th day of July in the year of our Lord one thousand nine hundred and thirty-nine between James W. Kelley, sometimes known as J. W. Kelley of the County of Grand and State of Colorado, of the first part, and THE UNITED STATES OF AMERICA AND ITS ASSIGNS, of the second part:

WITNESSETH, That the said party of the first part, for and in consideration of the sum of $2500.00, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part and its assigns, all the following described water rights situate, lying and being in the County of Grand and State of Colorado, to-wit:

All of one and one hundred fifteen thousands cubic feet of water per second of time from the Harbison Ditch in County of Grand, State of Colorado, and more particularly described as follows:

It is intended to convey and transfer all ditch right-of-ways attached thereto. It is intended to convey, set over and transfer water rights owned by the vendor, whether adjudicated under the laws of the State of Colorado or otherwise; and it is also and specifically intended to convey, set over and transfer free of all encumbrances whatsoever all of his certain rights in and to the use of one and one hundred fifteen thousandths cubic feet of water per second of time (1.115 cu. ft. per sec.) of the waters of the Little North Inlet Stream, sometimes called Big Meadow Creek or Tonahutu Creek and/or its tributaries, within the State of Colorado, more particularly described as follows:

The right acquired under and by virtue of the laws of the State of Colorado to divert one and one hundred fifteen thousandths (1.115) cubic feet of water per second of time, for use during the entire year, said right having a priority of Number One Hundred Ninety-Nine (No. 199), as determined and established by decree of the District Court of Grand County, State of Colorado, in an action entitled "In The Matter of the Adjudication of Priorities To The Right To The Use of Water For Irrigation Purposes in Water District No. 51, in the State of Colorado. On application of Roy Adams and Kate Harbison", confirming said right unto Roy Adams and Kate Harbison which said decree was made on

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August 3, 1911, and entered in Volume 1 at page 209, Water Adjudication Records of the District Court of Grand County, State of Colorado.

Together with the right acquired under and by virtue of the laws of the State of Colorado to divert one and one hundred fifteen thousandthe cubic feet of water per second of time (1.115 cu. ft. per sec.) for use from the first day of November in each year to the fifteenth day of April in the succeeding year and from the fifteenth day of April to the first day of November in each year to so much as one and one hundred fifteen thousandths cubic feet of water per second of time (1.115 cu. ft. per sec.) thereof as shall not be used by the owners of the irrigation rights of the Harbison Ditch, Priority No. 199, said right having a priority No. 1, General Appropriation No. 1, and Stream No. 1, as determined and established by decree of the District Court of Grand County, State of Colorado, in an action entitled "In The Matter Of The Adjudication Of Priorities Of Right To The Use Of Water For Purposes Other Than Irrigation, in Water District No. 51, of the State of Colorado, on application of Roy Adams", confirming said right unto Roy Adams, which said Decree was made on July 21, 1911, and entered in Volume 1, at Page 172, Water Adjudication Records of the District Court of Grand County, State of Colorado.

It is intended that with the transfer of said water rights consent is thereby given for the use of said water rights for any purpose by the United States.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained water rights, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said property above bargained and described, with the appurtenances, unto the said party of the second part and its assigns, forever. And the said party of the first part, for himself, his heirs, executors, and administrators, does covenant, grant, bargain and agree to and

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with the said party of the second part and its assigns, that at the time of the ensealing and delivery of these presents, he is well seized of the property above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever, with no exception, and the above bargained premises in the quiet and peaceable possession of the said party of the second part and its assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.

James W. Kelley (SEAL)

J. W. Kelley (SEAL)

STATE OF COLORADO)
) ss.
County of Grand)

The foregoing instrument was acknowledged before me this 31st day of July, 1939, by James W. Kelley, sometimes known as J. W. Kelley.

WITNESS my hand and official seal.

Bruce Shurtleff
Clerk of District Court of
Grand County, Colorado.

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STATE OF COLORADO, } ss.
In the COUNTY OF Denver }

I, Wayne H. Hackett, United States Commissioner, Rocky Mountain National Park, [redacted] in the State aforesaid, do hereby certify that

J. W. Kelley

who is personally known to me to be the person whose name is subscribed to the foregoing Deed, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and official seal this 22nd day of April, A. D. 1940.

My commission expires

Wayne H. Hackett
United States Commissioner
Rocky Mountain National Park

QUIT CLAIM DEED

TO

STATE OF COLORADO, } ss.
COUNTY OF [illegible] }

I hereby certify that this instrument was filed for record in my office at [illegible] o'clock [illegible] M., June 12, 1940, and is duly recorded in book 250 at page 221.

[illegible] Recorder

By [illegible] Deputy

Fees, $2.50 Paid

U. S. Dept. of Interior
Superintendent Mt. National Park
Rocky Mountain Park
Estes Park
Colo.

No. 5951. QUIT CLAIM DEED.—The Bradford-Robinson Ptg. Co., Mfrs. Robinson's Legal Blanks, Denver.

This Deed,

Made this 22 nd day of April in the year of our Lord one thousand nine hundred and forty between

J. W. Kelley

of the County of Grand and State of Colorado, of the first part, and

UNITED STATES OF AMERICA

of the County of and State of Colorado, of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of

One and No/100 - DOLLARS,

to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed and QUIT-CLAIMED, and by these presents does remise, release, sell, convey and QUIT-CLAIM unto the said party of the second part, its successors / heirs and assigns forever, all the right, title, interest, claim and demand which the said party of the first part has in and to the following described Water Right Interest situate, lying and being in the County of Grand and State of Colorado, to-wit:

All of 1.65 cubic feet of water per second of time of the one half interest in the right acquired under and by virtue of the laws of the State of Colorado to divert from the waters of Little North Inlet Stream, sometimes called Tonahuta Creek or Big Meadows Creek, 4.46 cubic feet of water per second of time for use during the entire year, said right having a priority of No.190 as determined and established by decree of the District Court of Grand County, State of Colorado, in an action entitled "In The Matter Of The Adjudication Of Priorities To The Right To The Use Of Water For Irrigation and Other Purposes in Water District No.51, In The State Of Colorado." On application of Roy Adams and Kate Harbison, confirming said right unto Roy Adams and Kate Harbison which said decree was made on August 3, 1911 and entered in Volume 1 at page 209, Water Adjudication Records of the District Court of Grand County, State of Colorado.

This quit claim deed is for the purpose of separating and distinguishing the interests of the parties to the said water right, the said J.W.Kelley being the successor in title to Roy Adams. The interest herein quit claimed is the interest acquired by the grantee herein from the Estate of Kittie Harbison. The grantor herein still retains 2.23 cubic feet per second of time of said water right and the Harbison Estate retains .58 cubic feet thereof.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part, its successors / ~~heirs~~ and assigns forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

J.W. Kelley (SEAL)

(SEAL)

(SEAL)

(SEAL)

DISTRICT OF COLORADO) ss.

The foregoing was Acknowledged, Signed, Sealed and Delivered in the Presence of and before me this 22nd day of April A.D.1940, by J.W.Kelley.

Wayne H. Hackett

United States Commissioner
Rocky Mountain National Park.

STATE OF COLORADO)
) SS.
COUNTY OF GRAND)

IN THE COUNTY COURT

No. 1452

J. W. KELLEY, sometimes known as JAMES W. KELLEY,

Plaintiff,

vs.

ROY ADAMS,

Defendant.

DECREE

This matter coming on to be heard this 10th day of June, A. D. 1940, being one of the regular juridical days of the June term of Court, upon plaintiff's complaint, and the Court having read the said complaint and examined the files in this cause and heard the evidence of witnesses and argument of counsel, and the plaintiff appearing in person and by his attorney Charles E. Coughlin and the defendant not appearing although duly served with process in this cause, and the Court being sufficiently informed, DOTH THEREFORE FIND AS FOLLOWS:

1. That the complaint in this action was duly filed and that summons was duly issued on the 16th day of January, A. D. 1940, under the hand and seal of J. N. Pettingill Clerk of the said Court and together with copies of the complaint were on the 29th day of February, A. D. 1940, placed in the hands of the Sheriff of the County of Grand, State of Colorado, for service upon the defendant; that the Sheriff did make his return on the said summons to the office of the said clerk on the 11th day of May, A. D. 1940, having held the same for more than ten (10) days. That

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he did in his said return specifically set forth in detail in compliance with the laws, statutes and rules in force the efforts that he had made to obtain service upon the defendant not served and the reason for his failure so to do, and the said Sheriff did certify that he caused the records of the said County Treasurer's Office and Telephone and other general directories of the said County to be searched, and that he, the said Sheriff, was unable to find in the said County of Grand, State of Colorado, the defendant or any other person or persons upon whom service legally could be made as provided by law, and returned his summons endorsed that said defendant could not be found.

2. That thereafter and on to-wit the 16th day of March, A. D. 1940, the plaintiff duly made and executed his affidavit in proper form showing and setting forth in detail the efforts that he had made to discover the whereabouts, residence, address and postoffice address of the defendant, which affidavit was filed in this cause on the 16th day of March, A. D. 1940, which date was after the Sheriff's return and less than ten (10) days prior to the order for publication, and the Court further finds that the plaintiff did, after handing the said summons to the Sheriff, find the address of the said defendant Roy Adams to be Denver, Colorado; and the Court further finds that the last known address of the defendant Roy Adams was Denver, Colorado, and that the Clerk pursuant to order of Court did mail to the said address in a stamped envelope a copy of the summons in the within entitled cause, the same being done immediately after the entry of the order for publication, and that the Clerk made his affidavit of posting, and that the same is good and sufficient in all respects.

3. That on the 16th day of March, A. D. 1940, this Court made and entered an order for service of summons in this cause upon the defendant directing that service of summons be made upon the said defendant by publishing the said summons in the MIDDLE PARK TIMES paper, a newspaper published in Kremmling in the County of Grand, State of Colorado, where the action is pending, as provided by law; that pursuant to the said order said summons was thereafter published in the said newspaper for the length of time and in the manner and form as stated and as provided by law, as appears by proof of publication thereof on file in this cause, showing said summons was published for five successive weeks, the first publication being March 21st, 1940, which publication of service of summons the Court hereby finds to be duly sufficient and to be legal and binding upon the defendant thus served, and doth find that due and sufficient service of process in this cause has been properly and conclusively made upon the defendant, and further that the publisher's affidavit is in proper form and duly sufficient.

4. That the defendant is this cause, although being properly served with process, has failed to appear or plead in this cause, and that he is hereby declared to be in default and that said default is hereby entered and the complaint taken as confessed by him; and the Court further finds from the evidence that the defendant Roy Adams resides out of the said Grand County in Denver, Colorado and on to-wit May 21, A. D. 1940, executed and delivered to the plaintiff herein a quit claim deed to the property described in the complaint which the Court finds is equivalent to a disclaimer of any interest in said property.

That the property to which the decree quieting title in this action shall apply is otherwise described as follows:

> That certain water right lawfully obtained by the plaintiff by conveyance by warranty deed from the defendant, Roy Adams, and those deriving title by conveyances from him, which said water right, upon petition of defendant, Roy Adams, was adjudicated by decree of the District Court of Grand County, Colorado, dated July 21, 1911, in Case No. 184, and recorded in Book 87, page 525, Records of the County Clerk and Recorder of Grand County, Colorado, decreeing 4.6 cubic feet per second of time of the water flowing in the Little North Inlet, sometimes also known as Big Meadow Creek and Tonahutu Creek, being Priority No. 1, General appropriation No. 1, Stream No. 1, to the Harbison Ditch, which ditch is more particularly described as follows:
>
> Having its headgate on the west bank of said stream at a point about 1-3/4 miles from its mouth whence the E¼ Cor. Sec. 31, T. 4 N., R. 75 W., 6th P.M., bears S. 31° 50' W. 2491.5 feet. From said headgate the ditch runs in a general southwesterly direction, length 2 miles, width at bottom 3.5 feet, at water surface 4 feet, depth of flow 2 feet, grade 6.8 feet per mile, and decreed capacity 4.6 cubic feet per second of time.

That plaintiff and those through whom he claims have been for a period of 28 years in constant use of said ditch, except for the north lateral thereof which served lands in the SW¼ of Sec. 30 and the N½ NE¼ of Sec. 31, T. 4 N., R. 75 W., 6th P. M., which lateral plaintiff has not used and over which he asserts no control, and have also been, with the owners of certain irrigation rights therein, in joint, lawful and peaceful possession of the headworks, rights of way and ditch, other than said north lateral. From the point of diversion above described to the point where said ditch crosses the east-west center line of Sec. 31, T. 4 N., R. 75 W., which point is approximately 150 feet east of the West ¼ corner of said Sec. 31.

That from the point whence said ditch crosses the east-west center line of said Sec. 31 to its point of discharge a natural lake known as Columbine Lake, said ditch has been in the exclusive, lawful, undisturbed and peaceful possession and beneficial use of said plaintiff and those through whom he claims since July 29, 1912 (a period of 28 years).

5. That this is a proceeding known as an action in rem, and that the Court has complete jurisdiction of all the parties of the suit and the subject matter thereof.

6. That the allegations of the complaint herein are true and are fully sustained by the evidence that the plaintiff is the owner in fee simple of the water right described in the complaint as hereinafter set forth, and that the defendant has no right, title, interest, claim or demand in and to the said property, or any part or parcel thereof.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED, That the plaintiff is the owner in fee simple and in possession, and has been in lawful possession for the past twenty eight years, of the property described in the complaint as follows:

> That certain water right decreed in the District Court of Grand County, Colorado, on, to-wit, July 21, 1911, in case No. 184 and recorded in Book 87 page 525 in the Records of the County Clerk and Recorder of Grand County, Colorado, decreeing the defendant 4.6 cubic feet per second of time of the water flowing in the certain irrigation ditch known as Harbison Ditch being Priority No. 1 General Appropriation No. 1 Stream No. 1 to said irrigation water ditch known as the Harbison Ditch being more particularly described as follows:
>
> Having its headgate on the West bank of North Inlet to Grand Lake or Big Meadow Creek tributary to Grand Lake from which stream said ditch diverts its supply of water about 1-3/4 miles from its mouth, at a point where the E. 1/4 Cor., Sec. 31, Tp. 4 N., R. 75 W., 6 P.M., bears S. 31°50' W. 2491.5 feet. From said headgate the ditch runs in a general S. W. direction, length 2 miles, width at bottom 4 feet, at top 5 feet, grade 12 feet per mile, capacity 40 cubic feet per second of time, work commenced June 15, 1894; together with all works, headgates, dams, weirs and rights-of-way for said ditch, or laterals connected therewith; all in Water District No. 51 in the State of Colorado.

That the defendant Roy Adams has notright, title, interest, claim or demand in and to the property, or any part or parcel thereof, and that the said defendant is hereby forever debarred

8

and enjoined from claiming, asserting or enforcing any right, title, interest, claim or demand in or to the same or any part thereof, and as to him the title of the plaintiff J. W. KELLEY, sometimes known as James W. Kelley, in and to the said property is hereby forever quieted and confirmed.

Done and signed in open Court this 10th day of June, A. D. 1940.

BY THE COURT:

Judge.

206 a. CLERKS CERTIFICATE OF COPY—For County Court—Colorado.—Out West Printing and Stationery Co., Colorado Springs, Colo.

STATE OF COLORADO,
County of Grand } ss.

I, J. N. Pettingill Clerk of the County Court, in and for said County, in the State aforesaid, do hereby certify the foregoing to be a true, perfect and complete copy of a certain decree in a suit to quiet title in which J. W. Kelley, sometimes known as James W. Kelley is plaintiff and Ray Adams defendant, the case being No. 14 52 in the records of this Court, the property to which said cause applies being a water right to a certain ditch known as the Harbison Ditch in water District No. 57

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at my office in Hot Sulphur Springs this 10th day of June, A. D. 1940

CLERK.

9

2

PROOF READ

58645

STATE OF COLORADO,
County of GRAND
Filed for record this 10 day
of June 1940
at 11:40 o'clock A. M.
Recorded in Book 88 Page 269
R. O. Zenk
Recorder.
Deputy.
Fee $3.60 PA

1-1

$3.60 pd.
Bruce Sleight

05-21-1940: deed

Recorded at ..... o'clock ..... M. .....
Reception No. ..... Recorder.

This Deed. Made this day of May
in the year of our Lord one thousand nine hundred and Forty between

ROY ADAMS

of the City and County of Denver and State of Colorado, of the first part, and

J. W. KELLEY, sometimes known as JAMES W. KELLEY.
of the City and County of Denver and State of Colorado, of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of TEN AND NO/100 DOLLARS, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has remised, released, sold, conveyed and QUIT CLAIMED, and by these presents do es remise, release, sell, convey and QUIT CLAIM unto the said party of the second part, his heirs, successors and assigns forever, all the right, title, interest, claim and demand which the said party of the first part has in and to the following described water rights situate, lying and being in the County of Grand and State of Colorado, to-wit:

That certain Water Right in the Harbison Ditch in Grand County, Colorado granted Roy Adams by a decree of the District Court of Grand County, Colorado in case No. 184, dated July 21, 1911 recorded in Book 87, Page 525 of the Records of the County Clerk and Recorder of Grand County, Colorado which said decree erroneously describes the said Harbison Ditch in part as follows:

"A ditch used to provide a flow of fresh water for an artificial lake for trout culture, obtaining its supply of water from the Little North Inlet, sometimes known as Big Meadow Creek and the head-gate is located on the West bank of said stream at a point whence the E¼ Cor. Sec. 31 Tp 3N R75W of the 6th P.M. bears south 31°50' W4966 feet."

And which description was, after a careful survey, corrected by a further decree in the same Court dated July 11, 1939, recorded in Book 87, Page 525 in which "Tp 3N" was changed to"Tp 4N" and "bears S.31°50' W4966 feet" to "bears S.31°50' W2491.5 feet."

The purpose of this Quit Claim Deed is to convey all the right, title and interest which the said grantor herein had or has in the said water right and the said Harbison Ditch no matter in what manner described.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the said party of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of

Roy Adams [SEAL]
..... [SEAL]
..... [SEAL]
..... [SEAL]

STATE OF COLORADO,
City and County of Denver } ss.

The foregoing instrument was acknowledged before me this 21st day of May A. D. 1940, by* Roy Adams

My commission expires August 23, 1941. Witness my hand and official seal.

Mata E. Anderson
Notary Public.

*If by natural person or persons here insert name or names; if by person acting in representative or official capacity or as attorney-in-fact, then insert name of person as executor, attorney-in-fact or other capacity or description; if by officer of corporation, then insert name of such officer or officers, as the president or other officers of such corporation, naming it.—*Statutory Acknowledgment, Session 1927.*

No. 933. QUIT CLAIM DEED.—The Bradford-Robinson Ptg. Co., Mfrs. Robinson's Legal Blanks. Denver.

24

PROOF READ

No. 53651

QUIT CLAIM DEED

TO

STATE OF COLORADO
County of Lincoln } ss.

I hereby certify that this instrument was filed for record in my office at 11:35 o'clock A. M. June 10, 1940, and is duly recorded in book 85 page 281

Clerk and Recorder.

By ..... Deputy.

Fees, $ 1.50

Bruce Shirff

4-40 THE BRADFORD-ROBINSON PTG. CO., DENVER

1-1

12-30-1939: report on present possessor rights

ROCKY MOUNTAIN NATIONAL PARK

Report on
PRESENT POSSESSORY RIGHTS

Tract No. _____ Owner Robert A. Harrison, et al. Contract No. I-lp-15884 I-lp-16347

1. (a) If occupied, name of occupant of premises:

unoccupied

(b) Nature of occupant's right to possession:

none

2. (a) Evidence of recent building construction:

none

(b) Outstanding recorded mechanic's, laborer's or materialmen's liens:

none

3. Do the physical boundaries of the property conform generally with the description in the deed of conveyance? Yes

4. (a) If the property is affected by any easement, the nature of such easement:

Kelley lateral ditch as shown on plat attached to abstract.

(b) Public or private? private

If private, the names of those entitled to enjoy same? Mary Alice Schnoor, J. W. Kelley.

5. Other reasons, if any, together with full explanations, why the United States is not entitled to unrestricted possession of the property upon acceptance of title:

None

Signed John C. McLaury
Acting Supt., Rocky Mountain National Park

Date: 12/30/39

1a

12-30-1939: certificate: physical inspection of approximately 225 acres of land

Estes Park, Colorado,
December 30, 1939.

CERTIFICATE

This is to certify that I have caused a physical inspection to be made of approximately 225 acres of land and certain water rights which Robert A. Harbison, et al. have contracted to sell to the United States under contracts Nos. I-lp-15484 and I-lp-16547. The patent from the United States to the vendor's predecessors in interest covering the land being conveyed was issued subject to any vested and accrued water rights and other things. So far as could be determined, none of the water rights, etc., mentioned above have ever been exercised and are not now being exercised by third persons so as to create an easement or easements in the property in question except that ditch known as the Kelley lateral mentioned in the report on present possessory rights. There are no administrative objections to the existence of the Kelley lateral which crosses the proposed road right of way and serves Mary Schnoor and J. W. Kelley.

John S. McLaughlin,
Acting Superintendent,
Rocky Mountain National Park.

2a

ADMINISTRATOR'S DEED

THIS INDENTURE, Made this 17th day of August, in the year of our Lord One Thousand Nine Hundred and Thirty Nine, between ROBERT A. HARBISON and MARY ALICE SCHNOOR, as Administrator and Administratrix with the Will Annexed respectively, of the Estate of Kittie Harbison, sometimes known as Kate Harbison, parties of the first part, and THE UNITED STATES OF AMERICA OR ITS ASSIGNS party of the second part, Witnesseth that

WHEREAS, in the County Court of the County of Grand, in the State of Colorado, on the 10th day of July, A. D. 1939, in the matter of the estate of Kittie Harbison, sometimes known as Kate Harbison, deceased, an order for sale of Real Estate and Water Rights was made and entered of record, which order is annexed hereto and made a part hereof.

AND WHEREAS, A bond was filed in due time in said Court as provided by law.

AND WHEREAS, The said parties of the first part did, on the 10th day of July, A. D. 1939, sell at private sale, for the total sum of SEVEN THOUSAND TWO HUNDRED AND NO/100 DOLLARS, ($7,200.00), to the party of the second part, the hereinafter described real estate.

AND WHEREAS, On the 17th day of July, A. D. 1939, the said parties of the first part, as administrator and administratrix with the will annexed of said estate as aforesaid, submitted to the said Court a report of such sale so made as aforesaid; and on said last named day, the said sale was, by order of said Court, duly approved and confirmed, and the said parties of the first part were authorized and directed to execute and deliver to the purchaser of said hereinafter described property, the party of the second part, a good and sufficient Deed of Conveyance for the premises and property so sold, said order being in substance as follows:

20

00-00-0000: order confirming sale of real estate and water rights at private sale

STATE OF COLORADO)
) SS.
COUNTY OF GRAND)

IN THE COUNTY COURT

No. 348

IN THE MATTER OF THE ESTATE OF KITTIE HARBISON, sometimes known as KATE HARBISON,

Deceased.

ORDER CONFIRMING SALE OF REAL ESTATE AND WATER RIGHTS AT PRIVATE SALE

Now on this day come Robert A. Harbison and Mary Alice Schnoor, administrator and administratrix, with the will annexed respectively of said estate in person, and by J. W. Kelley, their attorney, and Murnie Harbison, by J. W. Kelley, her attorney, the said persons being the sole and only persons in interest in said estate, they being the sole and only legatees under the will of the said decedent, and this matter coming on for hearing and action according to a previous setting upon the report of the sale of real estate and water rights, hereinafter described, made by the administrator and administratrix, with the will annexed, herein by order of the court heretofore made and entered of record herein.

And it appearing to the satisfaction of the Court that no objections are now here made or filed against said report; that in making said sale, the said Robert A. Harbison and Mary Alice Schnoor, as aforesaid, have in all respects fully complied with the statute in such case made and provided, and with the order of this Court in the premises; that the said sale was legally made and fairly conducted, and that the sum received therefor was not disproportionate to the value of the property sold, and that a greater sum than specified in said report cannot be obtained for said property, or any tract of parcel thereof; It is therefore, by virtue of the law and by reason of the premises, ordered, adjudged and decreed, by the Court, that the sale as aforesaid, made by the said Robert A. Harbison and Mary Alice Schnoor, administrator and administratrix, with the will annexed as aforesaid, to The United States of America or its assigns of the following described parcel of land and water rights situate in the County of Grand, and State of Colorado, to-wit:

21

00-00-0000: outline of description for deed to the u.s.: kittie harrison estate

KITTIE HARRISON ESTATE

Outline of description for deed to the United States.

That part of the Estate of Kittie Harbison, sometimes known as Kate Harbison, described as follows: The West Half (W½) of the South West Quarter (SW¼) of Section Thirty (30), and the North Half (N½) of the North West Quarter (NW¼) of the North West Quarter (NW¼) of Section Thirty-one (31), Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, including all appurtenances, rights of way and water rights attached thereto.

More particularly described by distances and courses as follows: Beginning at the West One Quarter (W¼) corner of Section Thirty (30), Township Four North (T4N), Range Seventy Five West (R75W), of the Sixth Principal Meridian (6PM), Colorado, which is the North West (NW) corner of Lot Three (3); thence S 88° 46' E 1348.40 feet along the latitudinal center line of said Section Thirty (30) to the West One-Sixteenth (W 1/16) corner on the latitudinal center line, which is the North East (NE) corner of Lot Three (3); thence S 1° 18' W 2639.08 feet to the West One-Sixteenth (W 1/16) corner on the true line between Section Thirty (30) and Section Thirty-one (31), which is the South East (SE) corner of Lot Four (4) of said Section Thirty (30); thence S 1° 08' W 675.98 feet to the South East (SE) corner of the North East Quarter (NE¼) of the North West Quarter (NW¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 88° 50' W 1348.08 feet to the South West (SW) corner of the North West Quarter (NW¼) of the North West Quarter (NW¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 0° 54' E 680.625 feet on the true line between said Section Thirty-one (31) and Section Thirty-six (36), Township Four North (T4N), Range Seventy Six West (R76W), of the Sixth Principal Meridian (6PM), Colorado, to the North West (NW) corner of said Section Thirty-one (31); thence N 1° 23' E 2656.04 feet on the true line between said Section Thirty (30) and Section Twenty-five (25), Township Four North (T4N), Range Seventy Six West (R76W), of the Sixth Principal Meridian (6PM), Colorado, to the point of beginning. Containing One Hundred and Two and Thirty-three Hundredths (102.33) acres more or less.

It is intended to convey, set over and transfer One and Sixty Five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.) of any and all water rights owned by the vendors and used upon, or in connection with, the above described lands, whether adjudicated under the laws of the State of Colorado or otherwise; and it is also and specifically intended to convey, set over and transfer free of all encumbrances whatsoever all of One and Sixty Five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.) of their certain rights in and to the use of the waters of Little North inlet Streams, sometimes called Tonahutu Creek or Big Meadows Creek, or its tributaries, within the State of Colorado, more particularly described as follows:

22

The right acquired under and by virtue of the laws of the State of Colorado to divert One and Sixty-five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.), for use during the entire year, said right having a priority of No. 199 as determined and established by decree of the District Court of Grand County, State of Colorado, in an action entitled "In The Matter Of The Adjudication Of Priorities To The Right To The Use Of Water For Irrigation And Other Purposes In Water District No. 51, In The State Of Colorado." On application of Roy Adams and Kate Harbison, confirming said right unto Roy Adams and Kate Harbison which said decree was made on August 5, 1911 and entered in Volume 1 at page 209, Water Adjudication Records of the District Court of Grand County, State of Colorado.

It is intended that with the transfer of said water rights consent is thereby given for the use of said water rights for any purpose by the United States.

for the sum of $7,200.00, said sum being equal to the appraised value of said described real estate and water rights, be and the same is hereby approved and confirmed.

It is further ordered, adjudged and decreed by the court that the said Robert A. Harbison and Mary Alice Schnoor, as administrator and administratrix, with the will annexed, respectively of said estate, do and they are hereby authorized, directed and impowered to make, execute, acknowledge and deliver unto the said The United States of America or its assigns a good and sufficient deed of conveyance, conveying to said purchaser all the right, title, interest and estate in and to the said premises and property so sold, which the said Kittie Harbison, sometimes known as Kate Harbison, deceased, had therein at the time of her decease, with the same effect as if made by said decedent during her lifetime.

It is further ordered that said report so made as aforesaid be and it is hereby approved, and that the same be and it is hereby ordered recorded.

DONE IN OPEN COURT THIS 17th DAY OF JULY, A. D. 1939.

BY THE COURT:

J. N. PETTINGELL
County Judge.

24

NOW THEREFORE, This Indenture Witnesseth, That the said parties of the first part, in consideration of the premises, and the further consideration of the said sum of SEVEN THOUSAND TWO HUNDRED AND NO/100 DOLLARS ($7,200.00), to them in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, have sold and conveyed and by these presents do sell and convey unto the said party of the second part, THE UNITED STATES OF AMERICA OR ITS ASSIGNS, all the right, title and interest which the said Kittie Harbison, sometimes known as Kate Harbison, deceased, had in her lifetime and at the time of her death and in and to the following described real estate and water rights, situate, lying and being in the County of Grand and State of Colorado, to-wit:

00-00-0000: outline of description for deed to the u.s.: kittie harbison estate

KITTIE HARBISON ESTATE

Outline of description for deed to the United States.

That part of the Estate of Kittie Harbison, sometimes known as Kate Harbison, described as follows: The West Half ($W\frac{1}{2}$) of the South West Quarter ($SW\frac{1}{4}$) of Section Thirty (30), and the North Half ($N\frac{1}{2}$) of the North West Quarter ($NW\frac{1}{4}$) of the North West Quarter ($NW\frac{1}{4}$) of Section Thirty-one (31), Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, including all appurtenances, rights of way and water rights attached thereto.

More particularly described by distances and courses as follows: Beginning at the West One Quarter ($W\frac{1}{2}$) corner of Section Thirty (30), Township Four North (T4N), Range Seventy Five West (R75W), of the Sixth Principal Meridian (6PM), Colorado, which is the North West (NW) corner of Lot Three (3); thence S 88° 46' E 1342.40 feet along the latitudinal center line of said Section Thirty (30) to the West One-Sixteenth (W 1/16) corner on the latitudinal center line, which is the North East (NE) corner of Lot Three (3); thence S 1° 18' W 2639.02 feet to the West One-Sixteenth (W 1/16) corner on the true line between Section Thirty (30) and Section Thirty-one (31), which is the South East (SE) corner of Lot Four (4) of said Section Thirty (30); thence S 1° 02' W 675.92 feet to the South East (SE) corner of the North East Quarter ($NE\frac{1}{4}$) of the North West Quarter ($NW\frac{1}{4}$) of the North West Quarter ($NW\frac{1}{4}$) of said Section Thirty-one (31); thence N 88° 50' W 1343.08 feet to the South West (SW) corner of the North West Quarter ($NW\frac{1}{4}$) of the North West Quarter ($NW\frac{1}{4}$) of the North West Quarter ($NW\frac{1}{4}$) of said Section Thirty-one (31); thence N 0° 54' E 680.625 feet on the true line between said Section Thirty-one (31) and Section Thirty-six (36), Township Four North (T4N), Range Seventy Six West (R76W), of the Sixth Principal Meridian (6PM), Colorado, to the North West (NW) corner of said Section Thirty-one (31); thence N 1° 23' E 2636.04 feet on the true line between said Section Thirty (30) and Section Twenty-five (25), Township Four North (T4N), Range Seventy Six West (R76W), of the Sixth Principal Meridian (6PM), Colorado, to the point of beginning. Containing One Hundred and Two and Thirty-three Hundredths (102.33) acres more or less.

It is intended to convey, set over and transfer One and Sixty Five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.) of any and all water rights owned by the vendors and used upon, or in connection with, the above described lands, whether adjudicated under the laws of the State of Colorado or otherwise; and it is also and specifically intended to convey, set over and transfer free of all encumbrances whatsoever all of One and Sixty Five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.) of their certain rights in and to the use of the waters of Little North inlet Streams, sometimes called Tonahutu Creek or Big Meadows Creek, or its tributaries, within the State of Colorado, more particularly described as follows:

26

The right acquired under and by virtue of the laws of the State of Colorado to divert One and Sixty-five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.), for use during the entire year, said right having a priority of No. 199 as determined and established by decree of the District Court of Grand County, State of Colorado, in an action entitled "In The Matter Of The Adjudication Of Priorities To The Right To The Use Of Water For Irrigation And Other Purposes In Water District No. 51, In The State Of Colorado." On application of Roy Adams and Kate Harbison, confirming said right unto Roy Adams and Kate Harbison which said decree was made on August 3, 1911 and entered in Volume 1 at page 209, Water Adjudication Records of the District Court of Grand County, State of Colorado.

It is intended that with the transfer of said water rights consent is thereby given for the use of said water rights for any purpose by the United States.



TO HAVE AND TO HOLD THE SAME, With all the appurtenances thereunto belonging, or in anywise appertaining to the proper use, benefit and behoof of the said party of the second part, and its assigns forever.

IN WITNESS WHEREOF, The said parties of the first part, as Administrator and Administratrix with the Will Annexed of said estate as aforesaid, have hereunto set their hands and seals the day and year first hereinabove written.

Robert A Harbison (SEAL)
Administrator with the Will Annexed
of the estate of Kittie Harbison,
sometimes known as Kate Harbison.

Mary Alice Schnoor (SEAL)
Administratrix with the Will Annexed
of the estate of Kittie Harbison,
sometimes known as Kate Harbison.

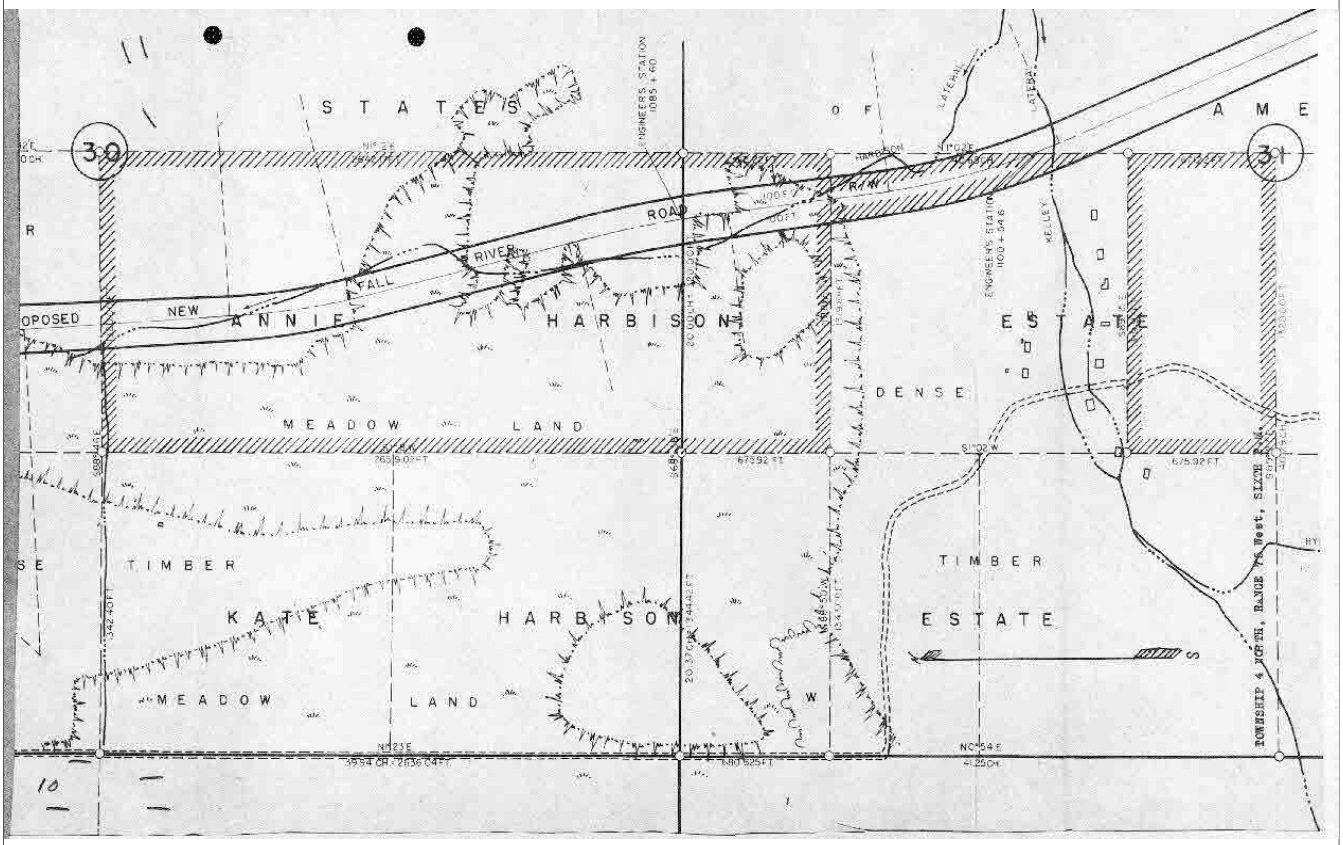
STATE OF COLORADO)
) ss.
County of Grand)

I, WAYNE H. HACKETT, a United States Commissioner in the State aforesaid, do hereby certify that Robert A. Harbison and Mary Alice Schnoor who are personally known to me to be the Administrator and Administratrix with the Will Annexed of the Estate of Kittie Harbison, sometimes known as Kate Harbison, deceased, and known to me to be the persons whose names are subscribed to the foregoing deed, appeared before me this day in person and acknowledged that they had as such Administrator and Administratrix with the Will Annexed of said estate, signed, sealed and delivered the said instrument of writing as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal this 18th day of August, A. D. 1939.

Wayne H. Hackett
United States Commissioner for
Rocky Mountain National Park.

00-00-0000: map of the harbison estate



UNITED STATES OF AMERICA

STATE OF COLORADO)
) ss. IN COUNTY COURT June Term, A.D. 1939
County of Grand)

Pleas before the Honorable J. N. Pettingell, Judge of the County Court, within and for the County of Grand, State aforesaid, and at a Term thereof begun and held at the Court House in Hot Sulphur Springs, in said County, on the first Monday (being the 5th day) of June in the year of our Lord one thousand nine hundred and thirty-nine and of the Independence of the United States the one hundred and sixty-third.

Present: Honorable J.N.Pettingell, Judge. Mark E. Fletcher, Sheriff.
Attest: Brice Sheriff, Deputy Clerk.

30

BE IT REMEMBERED THAT, Upon, to-wit, the 10th day of July, A.D. 1939, the same being one of the regular days of the June term of said Court, the following Order to Sell Real Estate and Water Rights was filed in said Court, to-wit:

07-10-1939: order for sale of real estate and water rights at private sale

STATE OF COLORADO)
) SS.
COUNTY OF GRAND)

IN THE COUNTY COURT

No. 348.

IN THE MATTER OF THE ESTATE OF KITTIE HARBISON, sometimes known as KATE HARBISON, Deceased.

ORDER FOR SALE OF REAL ESTATE AND WATER RIGHTS AT PRIVATE SALE

Now on this 10th day of July, A. D. 1939, this matter coming on to be heard upon the amended petition of Robert A. Harbison and Mary Alice Schnoor, administrator and administratrix respectively with the will annexed of said estate, for an order giving them authority for the sale of real estate and water rights, and notice of hearing on said petition having been filed herein, and said notice having been issued on the 5th day of June, A. D. 1939, and said administrator and administratrix, with the will annexed, of the estate of Kittie Harbison, sometimes known as Kate Harbison, deceased, appeared in person and by J. W. Kelley, their attorney, and it now satisfactorily appearing to the Court from the records and files of said Court herein, that an order has been heretofore entered fixing the 10th day of July, A. D. 1939, as the day for the hearing upon said amended petition; that Robert A. Harbison, Murnie Harbison and Mary Alice Schnoor the sole legatees under the last will of the deceased, heretofore admitted to probate in this Court, are the only persons in interest herein and that said persons are now the sole legatees under the said will of the above named decedent of the said real property and water rights which is the subject of this order; that said persons in interest were personally served with a copy of the petition and notice of hearing upon said petition at least twenty days before the time in said order appointed for hearing said

petition; that said above named sole parties in interest have duly filed in this Court an acknowledgement of said service and waiver of any and all objections to said sale of said real estate and water rights, and the Court being satisfied, after a full hearing, and after having examined the files and records of said Court in said cause and duly considered the same, and the evidence at said hearing the Court doth find that proper and legal grounds exist for the sale of the real estate and water rights hereinafter described for the purpose of disposing of the same to the best advantage of the sole parties in interest upon their petition to do so; that the personal property of said estate is not sufficient to pay the debts and claims, and that it is necessary and expedient for and to the best interest of the estate and the persons in interest therein, and all persons concerned having due regard for the rights of all, that the real estate hereinafter described be sold; that said petitioners have executed and filed in said Court a Bond with good and sufficient surety, conditioned for the faithful accounting of any and all sums received from such sale, in a penal sum not less than the value of the land to be sold, as hereinafter provided, which bond is hereby approved by the Court; that inventory of the real and personal estate and appraisement of the said real estate have been duly made and filed herein.

And now the Court being fully advised in the premises, it is therefore, by virtue of the law and by reason of the premises and the findings aforesaid, considered, ordered, adjudged and decreed by the Court, that the said petitioners herein Robert A. Harbison, administrator with the will annexed and Mary Alice Schnoor, administratrix with the will annexed, be and hereby are authorized and directed to proceed according to law to sell all the right, title and interest of said estate of Kittie Harbison, sometimes known as Kate Harbison, deceased, in and to the following described real estate and water rights:

00-00-0000: outline of description for deed to the u.s.: kittie harbison estate

KITTIE HARBISON ESTATE

Outline of description for deed to the United States.

That part of the Estate of Kittie Harbison, sometimes known as Kate Harbison, described as follows: The West Half (W½) of the South West Quarter (SW¼) of Section Thirty (30), and the North Half (N½) of the North West Quarter (NW¼) of the North West Quarter (NW¼) of Section Thirty-one (31), Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, including all appurtenances, rights of way and water rights attached thereto.

More particularly described by distances and courses as follows: Beginning at the West One Quarter (W¼) corner of Section Thirty (30), Township Four North (T4N), Range Seventy Five West (R75W), of the Sixth Principal Meridian (6 PM), Colorado, which is the North West (NW) corner of Lot Three (3); thence S 88° 46' E 1342.40 feet along the latitudinal center line of said Section Thirty (30) to the West One-Sixteenth (W 1/16) corner on the latitudinal center line, which is the North East (NE) corner of Lot Three (3); thence S 1° 18' W 2639.08 feet to the West One-Sixteenth (W 1/16) corner on the true line between Section Thirty (30) and Section Thirty-one (31), which is the South East (SE) corner of Lot Four (4) of said Section Thirty (30); thence S 1° 02' W 675.92 feet to the South East (SE) corner of the North East Quarter (NE¼) of the North West Quarter (NW¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 88° 30' W 1343.08 feet to the South West (SW) corner of the North West Quarter (NW¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 0° 54' E 660.625 feet on the true line between said Section Thirty-one (31) and Section Thirty-six (36), Township Four North (T4N), Range Seventy Six West (R76W), of the Sixth Principal Meridian (6PM), Colorado, to the North West (NW) corner of said Section Thirty-one (31); thence N 1° 23' E 2636.04 feet on the true line between said Section Thirty (30) and Section Twenty-five (25), Township Four North (T4N), Range Seventy Six West (R76W), of the Sixth Principal Meridian (6PM), Colorado, to the point of beginning. Containing One Hundred and Two and Thirty-three Hundredths (102.33) acres more or less.

It is intended to convey, set over and transfer One and Sixty Five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.) of any and all water rights owned by the vendors and used upon, or in connection with, the above described lands, whether adjudicated under the laws of the State of Colorado or otherwise; and it is also and specifically intended to convey, set over and transfer free of all encumbrances whatsoever all of One and Sixty Five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.) of their certain rights in and to the use of the waters of Little North Inlet Streams, sometimes called Tenahutu Creek or Big Meadows Creek, or its tributaries, within the State of Colorado, more particularly described as follows:

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The right acquired under and by virtue of the laws of the State of Colorado to divert One and Sixty-five Hundredths cubic feet of water per second of time (1.65 cu. ft. per sec.), for use during the entire year, said right having a priority of No. 199 as determined and established by decree of the District Court of Grand County, State of Colorado, in an action entitled "In The Matter Of The Adjudication Of Priorities To The Right To The Use Of Water For Irrigation And Other Purposes In Water District No. 51, In The State Of Colorado." On application of Roy Adams and Kate Harbison, confirming said right unto Roy Adams and Kate Harbison which said decree was made on August 3, 1911 and entered in Volume 1 at page 209, Water Adjudication Records of the District Court of Grand County, State of Colorado.

It is intended that with the transfer of said water rights consent is thereby given for the use of said water rights for any purpose by the United States.

3-

upon the following terms, to-wit: for cash.

And it being the opinion of the Court after a full hearing that it would benefit the said estate to sell such real estate and water rights at private sale, due regard being had for the rights of all, it is hereby ordered that said property be sold at private sale, and not less than the appraised value thereof; petitioners herein, either directly or indirectly, or by anyone for them, not to become the purchaser of said property or any part thereof;

And it being the opinion of the Court that it would benefit the said estate to sell such real estate and water rights, due regard being had for the rights of all, it is ordered that said property consisting of the real estate and water rights herein described be sold at said private sale for not less than the sum of $7,200.00;

That upon making such sale said petitioners shall thereupon report their action in the premises to this Court with all convenient speed.

It is further ordered that this cause stand continued to the 10th day of July, A. D. 1939, for hearing and action upon said report.

DONE IN OPEN COURT THIS 10TH DAY OF JULY, A. D. 1939.

BY THE COURT:

J. N. PETTINGELL
Judge.

07-24-1939: county court of the county of grand, certify the order to sell real estate and water rights is a true and correct copy

STATE OF COLORADO)
) ss.
County of Grand)

I, J. N. PETTINGELL, Clerk of the County Court of the County of Grand, do hereby certify the foregoing to be a true and correct copy of the Order to Sell Real Estate and Water Rights as the same remains on file and of record in my office, in the matter of the Estate of Kittie Harbison, sometimes known as Kate Harbison, deceased.

WITNESS my signature and Seal of said Court this 24th day of July, A.D. 1939.

Clerk of the County Court
of Grand County.

07-24-1939: county court of the county of grand, certify the order to sell real estate and water rights is a true and correct copy, pag

22888

PROOF READ

STATE OF COLORADO, }
County of GRAND } ss.
Filed for record this 30th
day of Dec
at 11 32 o'clock A M.
Recorded in Book 88 Page 134
M. O. Thornburgh
Recorder.
O. G. Hourigan
Fees $ 4.20 Deputy

1-1

47

08-17-1939: administrator's deed

ADMINISTRATOR'S DEED

THIS INDENTURE, Made this 17th day of August, in the year of our Lord One Thousand Nine Hundred and Thirty Nine, between ROBERT A. HARBISON and MARY ALICE SCHNOOR, as Administrator and Administratrix with the Will Annexed respectively, of the Estate of Annie Harbison, sometimes known as Anna Harbison, parties of the first part, and THE UNITED STATES OF AMERICA OR ITS ASSIGNS party of the second part, Witnesseth that

WHEREAS, in the County Court of the County of Grand, in the State of Colorado, on the 10th day of July, A. D. 1939, in the matter of the estate of Annie Harbison, sometimes known as Anna Harbison, deceased, an order for sale of Real Estate was made and entered of record, which order is annexed hereto and made a part hereof

AND WHEREAS, A bond was filed in due time in said Court as provided by law.

AND WHEREAS, The said parties of the first part did, on the 10th day of July, A.D. 1939, sell at private sale, for the total sum of FIVE THOUSAND ONE HUNDRED SEVENTY-TWO AND 70/100 DOLLARS ($5,172.70), to the party of the second part, the hereinafter described real estate.

AND WHEREAS, On the 17th day of July, A.D. 1939, the said parties of the first part, as administrator and administratrix with the will annexed of said estate as aforesaid, submitted to the said Court a report of such sale so made as aforesaid; and on said last named day, the said sale was, by order of said Court, duly approved and confirmed, and the said parties of the first part were authorized and directed to execute and deliver to the purchaser of said hereinafter described property, the party of the second part, a good and sufficient Deed of Conveyance for the premises and property so sold, said order being in substance as follows:

00-00-0000: order confirming sale of real estate at private sale

STATE OF COLORADO)
) ss.
COUNTY OF GRAND)

IN THE COUNTY COURT

No. 349.

IN THE MATTER OF THE ESTATE OF ANNIE HARBISON, sometimes known as ANNA HARBISON,

Deceased.

ORDER CONFIRMING SALE OF REAL ESTATE AT PRIVATE SALE

Now on this day come Robert A. Harbison and Mary Alice Schnoor, administrator and administratrix, with the will annexed respectively of said estate in person, and by J. W. Kelley, their attorney, and Murnie Harbison, by J. W. Kelley, her attorney, the said persons being the sole and only persons in interest in said estate, they being the sole and only legatees under the will of said decedent, and this matter coming on for hearing and action according to a previous setting upon the report of the sale of real estate hereinafter described, made by the administrator and administratrix with the will annexed herein by order of the court heretofore made and entered of record herein.

And it appearing to the satisfaction of the court that no objections are now here made or filed against said report; that in making said sale, the said Robert A. Harbison and Mary Alice Schnoor, as aforesaid, have in all respects fully complied with the statute in such case made and provided, and with the order of this court in the premises; that the said sale was legally made and fairly conducted, and that the sum received therefor was not disproportionate to the value of the property sold, and that a greater sum than specified in said report cannot be obtained for said property, or any tract or parcel thereof. It is therefore, by virtue of the law and by reason of the premises, ordered, adjudged and decreed, by the court, that the sale as aforesaid, made by the said Robert A. Harbison and Mary Alice Schnoor, administrator and administratrix with the will annexed as aforesaid, to The United States of America or its assigns of the following described parcel of land situate in the County of Grand, and State of Colorado, to-wit:

00-00-0000: outline of description for deed to the u.s.: annie harbison estate

ANNIE HARBISON ESTATE

Outline of description for deed to the United States

That part of the Estate of Annie Harbison, sometimes known as Anna Harbison, described as follows: The East Half (E½) of the South West Quarter (SW¼) of Section Thirty (30); and the North Half (N½) of the North East Quarter (NE¼) of the North West Quarter (NW¼), and the South Half (S½) of the South East Quarter (SE¼) of the North West Quarter (NW¼) of Section 31, Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, including all appurtenances, right-of-ways and water rights attached thereto.

More particularly described by distances and courses as follows: Beginning at the proportionate point for the center quarter (C¼) section corner of said Section Thirty (30), thence S 1° 12' W 2642.17 feet along the meridional center line of said section Thirty (30) to the South Quarter (S¼) corner of said Section Thirty (30); thence S 1° 02' W 671.22 feet to the South East (SE) corner of the North East Quarter (NE¼) of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 88° 50' W 1319.88 feet to the South West (SW) corner of the North West Quarter (NW¼) of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 1° 02' E 675.92 feet to the North East (NE) corner of the North East Quarter (NE¼) of the North West Quarter (NW¼) of the North West Quarter (NW¼) of said Section Thirty-one (31) which is the North East (NE) corner of Lot One (1) of said Section Thirty-one (31); thence N 1° 18' E 2639.02 feet to the West One-sixteenth (W 1/16) corner of the latitudinal center line of said Section Thirty (30), which is the North East (NE) Corner of Lot Three (3) of said Section Thirty (30); thence S 88° 46' E 1320.00 feet on the latitudinal center line of said Section Thirty (30) to the point of beginning. The above tract of land contains 100.4 acres more or less. Beginning at the proportionate point for center quarter (C¼) section corner of section Thirty-one (31), Township Four North (T4N), Range Seventy-five West (R75W), of the Sixth principal meridian (6PM), Colorado; thence N 89° 27' W along the latitudinal center line of said Section Thirty-one (31), 1320.00 feet to the Southwest (SW) corner of the Southwest quarter (SW¼) of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of said section Thirty-one (31); thence N 1° 02' E 675.92 feet to the Northwest (NW) corner of the Southwest quarter (SW¼) of the Southeast quarter (SE¼) of the Northwest quarter (NW¼) of said section Thirty-one (31); thence S 89° 15' E 1319.97 feet to the north east (NE) corner of the Southeast quarter (SE¼) of the Southeast quarter (SE¼) of the Northwest quarter (NW¼) of said section Thirty-one (31); thence S 1° 02' W 671.22 feet to the point of beginning, containing Twenty and Forty-one hundredths (20.41) Acres, more or less.

Together with the optioned road right-of-way in the South Half (S½) of the North East Quarter (NE¼) of the North West Quarter (NW¼), and in the North Half (N½) of the South East Quarter (SE¼) of the North West Quarter (NW¼) of Sec. Thirty-one (31), Township Four North

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(T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, more particularly described by courses and distances as follows: Beginning at a point known as Engineer's Station 1085+60 which point is the intersection of the said surveyed center line and the section line common to Sections Thirty (30) and Thirty-one (31), Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), said point bears N 88° 38' W and 278.5 feet from the quarter corner common to said Sections Thirty (30) and Thirty-one (31); thence S 88° 38' East a distance of 100.6 feet along the said section line common to Sections Thirty (30) and Thirty-one (31); thence along the arc of a 5830 foot radius curve to the right (the long chord of which bears S 7° 15' East for a distance of 132.6 feet) through a central angle of 1° 18' for a distance of 132.9 feet; thence S 6° 36' East a distance of 545.2 feet to the true point of beginning for the parcel of land herein described; said point being on the true line which is the latitudinal center line of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence continuing S 6° 36' East a distance of 192.8 feet; thence along the arc of a 2765 foot radius curve to the left (the long chord of which bears S 9° 11' East a distance of 249.3 feet) through a central angle of 5° 10' for a distance of 249.5 feet to a point on the East boundary line of the North West Quarter (NW¼) of Section Thirty-one (31); thence S 1° 20' W a distance of 328.5 feet to a point known as Engineer's Station 1100+54.6 of the surveyed center line; thence S 1° 20' W a distance of 256.5 feet; thence N 22° 46' 30" W a distance of 42 feet; thence along the arc of a 2965 foot radius curve right (the long chord of which bears N 14° 41' 30" W a distance of 834.7 feet) through a central angle of 16° 10' 30" a distance of 836.7 feet; thence N 6° 36' W a distance of 197.3 feet; thence S 88° 50' E a distance of 201.2 feet along the latitudinal center line of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31) to the true point of beginning. All containing 3.16 acres more or less.

All the above described tracts containing a total of 123.97 acres more or less.

for the sum of $5,172.70, said sum being equal to the appraised value of said described real estate, be and the same is hereby approved and confirmed.

It is further ordered, adjudged and decreed by the court that the said Robert L. Harbison and Mary Alice Schnoor, as administrator and administratrix with the will annexed respectively of said estate, do and they are hereby authorized, directed and empowered to make, execute, acknowledge and deliver unto the said The United States of America or its assigns, a good and sufficient deed of conveyance, conveying to said purchaser all the right, title, interest and estate in and to the said premises and property so sold, which the said Annie Harbison, deceased, had therein at the time of her decease, with the same effect as if made by said decedent during her lifetime.

It is further ordered that said report so made as aforesaid be and it is hereby approved, and that the same be and it is hereby ordered recorded.

DONE IN OPEN COURT THIS 17th DAY OF July, A. D. 1939.

BY THE COURT:

J. N. PETTINGELL
County Judge

NOW THEREFORE, This Indenture Witnesseth, That the said parties of the first part, in consideration of the premises, and the further consideration of the said sum of FIVE THOUSAND ONE HUNDRED SEVENTY-TWO AND 70/100 DOLLARS ($5,172.70), to them in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, have sold and conveyed and by these presents do sell and convey unto the said party of the second part, THE UNITED STATES OF AMERICA OR ITS ASSIGNS, all the right,title and interest which the said Annie Harbison, sometimes known as Anna Harbison, deceased, had in her life-time and at the time of her death, and in and to the following described real estate, situate, lying and being in the County of Grand and State of Colorado, to-wit:

00-00-0000: outline of description for deed to the u.s.: annie harbison estate

ANNIE HARBISON ESTATE

Outline of description for deed to the United States

That part of the Estate of Annie Harbison, sometimes known as Anna Harbison, described as follows: The East Half (E½) of the South West Quarter (SW¼) of Section Thirty (30); and the North Half (N½) of the North East Quarter (NE¼) of the North West Quarter (NW¼); and the South Half (S½) of the South East Quarter (SE¼) of the North West Quarter (NW¼) of Section 31, Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, including all appurtenances, right-of-ways and water rights attached thereto.

More particularly described by distances and courses as follows: Beginning at the proportionate point for the center quarter (C¼) section corner of said Section Thirty (30), thence S 1° 12' W 2642.17 feet along the meridional center line of said section Thirty (30) to the South Quarter (S¼) corner of said Section Thirty (30); thence S 1° 02' W 671.22 feet to the South East (SE) corner of the North East Quarter (NE¼) of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 88° 50' W 1319.88 feet to the South West (SW) corner of the North West Quarter (NW¼) of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 1° 02' E 675.92 feet to the North East (NE) corner of the North East Quarter (NE¼) of the North West Quarter (NW¼) of the North West Quarter (NW¼) of said Section Thirty-one (31) which is the North East (NE) corner of Lot One (1) of said Section Thirty-one (31); thence N 1° 18' E 2639.02 feet to the West One-sixteenth (W 1/16) corner of the latitudinal center line of said Section Thirty (30), which is the North East (NE) Corner of Lot Three (3) of said Section Thirty (30); thence S 88° 46' E 1320.00 feet on the latitudinal center line of said Section Thirty (30) to the point of beginning. The above tract of land contains 100.4 acres more or less. Beginning at the proportionate point for center quarter (C¼) section corner of section Thirty-one (31), Township Four North (T4N), Range Seventy-five West (R75W), of the Sixth principal meridian (6PM), Colorado; thence N 89° 27' W along the latitudinal center line of said Section Thirty-one (31), 1320.00 feet to the Southwest (SW) corner of the Southwest quarter (SW¼) of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of said section Thirty-one (31); thence N 1° 02' E 675.92 feet to the Northwest (NW) corner of the Southwest quarter (SW¼) of the Southeast quarter (SE¼) of the Northwest quarter (NW¼) of said section Thirty-one (31); thence S 89° 15' E 1319.97 feet to the north east (NE) corner of the Southeast quarter (SE¼) of the Southeast quarter (SE¼) of the Northwest quarter (NW¼) of said section Thirty-one (31); thence S 1° 02' W 671.22 feet to the point of beginning, containing Twenty and Forty-one hundredths (20.41) Acres, more or less.

Together with the optioned road right-of-way in the South Half (S½) of the North East Quarter (NE¼) of the North West Quarter (NW¼), and in the North Half (N½) of the South East Quarter (SE¼) of the North West Quarter (NW¼) of Sec. Thirty-one (31), Township Four North

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(T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, more particularly described by courses and distances as follows: Beginning at a point known as Engineer's Station 1085+60 which point is the intersection of the said surveyed center line and the section line common to Sections Thirty (30) and Thirty-one (31), Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), said point bears N 88° 38' W and 278.5 feet from the quarter corner common to said Sections Thirty (30) and Thirty-one (31); thence S 88° 38' East a distance of 100.6 feet along the said section line common to Sections Thirty (30) and Thirty-one (31); thence along the arc of a 5830 foot radius curve to the right (the long chord of which bears S 7° 15' East for a distance of 132.6 feet) through a central angle of 1° 18' for a distance of 132.9 feet; thence S 6° 36' East a distance of 545.2 feet to the true point of beginning for the parcel of land herein described; said point being on the true line which is the latitudinal center line of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence continuing S 6° 36' East a distance of 192.8 feet; thence along the arc of a 2765 foot radius curve to the left (the long chord of which bears S 9° 11' East a distance of 249.3 feet) through a central angle of 5° 10' for a distance of 249.5 feet to a point on the East boundary line of the North West Quarter (NW¼) of Section Thirty-one (31); thence S 1° 20' W a distance of 328.5 feet to a point known as Engineer's Station 1100+54.6 of the surveyed center line; thence S 1° 20' W a distance of 256.5 feet; thence N 22° 46' 30" W a distance of 42 feet; thence along the arc of a 2965 foot radius curve right (the long chord of which bears N 14° 41' 30" W a distance of 834.7 feet) through a central angle of 16° 10' 30" a distance of 836.7 feet; thence N 6° 36' W a distance of 197.3 feet; thence S 88° 50' E a distance of 201.2 feet along the latitudinal center line of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31) to the true point of beginning. All containing 3.16 acres more or less.

All the above described tracts containing a total of 123.97 acres more or less.



TO HAVE AND TO HOLD THE SAME, With all the appurtenances thereunto belonging, or in anywise appertaining to the proper use, benefit and behoof of the said party of the second part, and its assigns forever.

IN WITNESS WHEREOF, The said parties of the first part, as Administrator and Administratrix with the Will Annexed of said estate as aforesaid, have hereunto set their hands and seals the day and year first hereinabove written.

Robert A. Harbison (SEAL)
Administrator with the Will Annexed
of the estate of Annie Harbison,
sometimes known as Anna Harbison.

Mary Alice Schnoor (SEAL)
Administratrix with the Will Annexed
of the estate of Annie Harbison,
sometimes known as Anna Harbison.

STATE OF COLORADO)
) ss.
County of Grand)

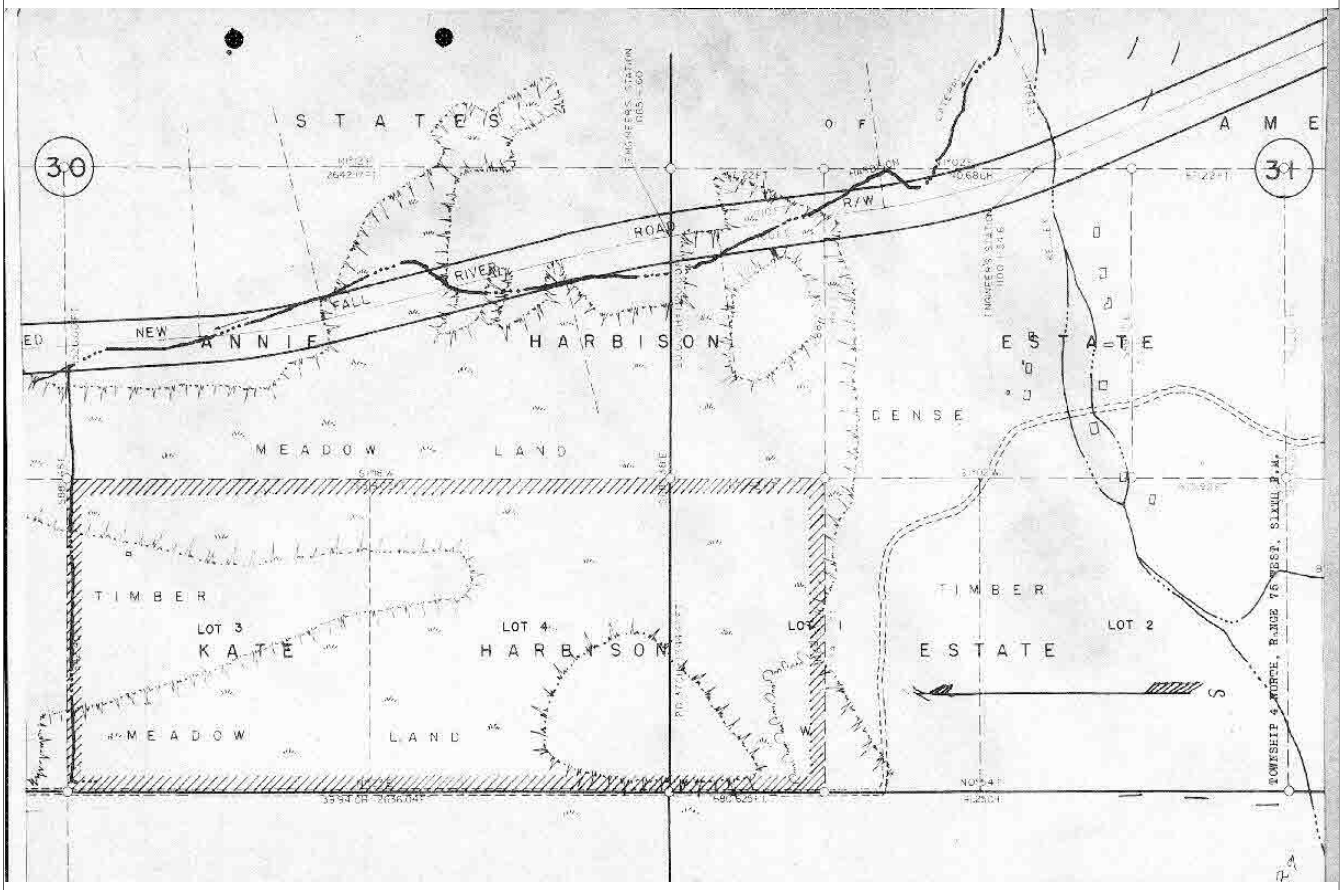
I, WAYNE H. HACKETT, a United States Commissioner in the State aforesaid, do hereby certify that Robert A. Harbison and Mary Alice Schnoor who are personally known to me to be the Administrator and Administratrix with the Will Annexed of the Estate of Annie Harbison, sometimes known as Anna Harbison, deceased, and known to me to be the persons whose names are subscribed to the foregoing deed, appeared before me this day in person and acknowledged that they had as such Administrator and Administratrix with the Will Annexed of said estate, signed, sealed, and delivered the said instrument of writing as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal this 18 th day of August, A. D. 1939.

Wayne H. Hackett
United States Commissioner for
Rocky Mountain National Park.

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00-00-0000: map of the harbison estates



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UNITED STATES OF AMERICA

STATE OF COLORADO)
) ss. IN COUNTY COURT June Term, A.D. 1939
County of Grand)

Pleas before the Honorable J. N. Pettingell, Judge of the County Court, within and for the County of Grand, State aforesaid, and at a Term thereof begun and held at the Court House in Hot Sulphur Springs, in said County, on the first Monday (being the 5th day) of June in the year of our Lord one thousand nine hundred and thirty-nine and of the Independence of the United States the one hundred and sixty-third.

Present: Honorable J.N.Pettingell, Judge. Mark E. Fletcher, Sheriff.
Attest: Brice Sheriff, Deputy Clerk.

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BE IT REMEMBERED THAT, Upon, to-wit, the 10th day of July, A.D. 1939, the same being one of the regular days of the June term A. D. 1939, of said Court, the following Order of Sale of Real Estate was duly filed and entered of record in said Court, to-wit:

STATE OF COLORADO)
) SS.
COUNTY OF GRAND)

IN THE COUNTY COURT

No. 349.

IN THE MATTER OF THE ESTATE OF ANNIE HARBISON, sometimes known as ANNA HARBISON,

Deceased.

ORDER FOR SALE OF REAL ESTATE AT PRIVATE SALE

Now on this 10th day of July, A. D. 1939, this matter coming on to be heard upon the amended petition of Robert A. Harbison and Mary Alice Schnoor, administrator and administratrix, with the will annexed, respectively of said estate, for the sale of real estate, and notice of hearing on said petition having been filed herein, and said notice having been issued on the 5th day of June, A. D. 1939, and said administrator and administratrix, with the will annexed, of the estate of Annie Harbison, sometimes known as Anna Harbison, deceased, appeared in person and by J. W. Kelley, their attorney, and it now satisfactorily appearing to the Court from the records and files of said Court herein, that an order has been heretofore entered fixing the 10th day of July, A. D. 1939, as the day for the hearing upon said amended petition; that Robert A. Harbison, Murnie Harbison and Mary Alice Schnoor are the sole legatees under the last will of the deceased, heretofore admitted to probate in this Court, and are the only persons in interest herein and that said persons are now the sole legatees of the said real property which is the subject of this order and were personally served with a copy of the petition and notice of hearing upon said petition at least twenty days before the time in said order appointed for hearing said petition; that said above named parties in interest have duly filed in this Court an acknowledgement of said service and a waiver of any and all objections to said sale

of said real estate, and the Court having examined the files and records of said Court in said cause and having duly considered the same, the Court is satisfied after a full hearing and doth find that proper and legal grounds exist for the sale of the real estate hereinafter described for the purpose of disposing of the same to the best advantage of the sole parties in interest upon their petition to do so; that the personal property of said estate is not sufficient to pay the debts and claims, and that it is necessary and expedient for and to the best interest of the estate and the persons in interest therein, having due regard for the rights of all, that the real estate hereinafter described be sold; that said petitioners have executed and filed in said Court a Bond with good and sufficient surety, conditioned for the faithful accounting of any and all sums received from such sale, in a penal sum not less than the value of the land to be sold, as hereinafter provided, which bond is hereby approved by the court; that inventory of the real and personal estate and appraisement of the said real estate have been duly made and filed herein.

And now the Court being fully advised in the premises, it is therefore, by virtue of the law and by reason of the premises and the findings aforesaid, considered, ordered, adjudged and decreed by the Court, that the said petitioners herein, Robert A. Harbison, administrator, with the will annexed, and Mary Alice Schnoor, administratrix, with the will annexed, are hereby authorized and directed to proceed, according to law to sell all the right, title and interest of said estate of Annie Harbison, sometimes known as Anna Harbison, deceased, in and to the following described real estate:

ANNIE HARBISON ESTATE

E½ SW¼, Sec. 30, T 4 N, R 75 W, together with
N½ NE¼ NW¼, Sec. 31, T 4 N, R 75 W, together with
S½ SE¼ NW¼, Sec. 31, T 4N, R 75 W, together with
road right-of-way in the
S½ NE¼ NW¼, Sec. 31, T 4 N, R 75 W, and in the
N½ SE¼ NW¼, Sec. 31, T 4 N, R 75 W.

That part of the Estate of Annie Harbison, sometimes known as Anna Harbison, described as follows: The East Half (E½) of the South West Quarter (SW¼) of Section Thirty (30); and the North Half (N½) of the North East Quarter (NE¼) of the North West Quarter (NW¼); and the South Half (S½) of the South East Quarter (SE¼) of the North West Quarter (NW¼) of Section 31, Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, including all appurtenances, right-of-ways and water rights attached thereto.

More particularly described by distances and courses as follows: Beginning at the proportionate point for the center quarter (C¼) section corner of said Section Thirty (30), thence S 1° 12' W 2642.17 feet along the meridional center line of said section Thirty (30) to the South Quarter (S¼) corner of said Section Thirty (30); thence S 1° 02' W 671.22 feet to the South East (SE) corner of the North East Quarter (NE¼) of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 88° 50' W 1313.88 feet to the South West (SW) corner of the North West Quarter (NW¼) of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence N 1° 02' E 675.92 feet to the North East (NE) corner of the North East Quarter (NE¼) of the North West Quarter (NW¼) of the North West Quarter (NW¼) of said Section Thirty-one (31) which is the North East (NE) corner of Lot One (1) of said Section Thirty-one (31); thence N 1° 12' E 2652.02 feet to the East One-sixteenth (N 1/16) corner on the latitudinal center line of said Section Thirty (30), which is the North East (NE) Corner of Lot Three (3) of said Section Thirty (30); thence S 88° 48' E 1320.00 feet on the latitudinal center line of said Section Thirty (30) to the point of beginning. The above tract of land contains 100.4 acres more or less. Beginning at the proportionate point for center quarter (C¼) section corner of section Thirty-one (31), Township Four North (T4N), Range Seventy-five West (R75W), of the Sixth principal meridian (6PM), Colorado; thence N89° 27' E along the latitudinal center line of said Section Thirty-one (31), 1320.00 feet to the Southwest (SW) corner of the Southwest quarter (SW¼) of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of said section Thirty-one (31); thence N1° 02' E 676.92 feet to the Northwest (NW) corner of the Southeast quarter (SW¼) of the Southeast quarter (SE¼) of the Northeast quarter (NW¼) of said section Thirty-one (31); thence S 89° 15' E 1319.97 feet to the north east (NE) corner of the Southeast quarter (SE¼) of the Southeast quarter (SE¼) of the Northwest Quarter (NW¼) of said section Thirty-one (31); thence S 1° 02' W 671.22 feet to the point of beginning, containing Twenty and Forty-one hundredths (20.41) Acres, more or less.

Together with the optioned road right-of-way in the South Half (S½) of the North East Quarter (NE¼) of the North West Quarter (NW¼), and in the North Half (N½) of the South East Quarter (SE¼) of the

North West Quarter (NW¼) of Sec. Thirty-one (31), Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), Colorado, more particularly described by courses and distances as follows: Beginning at a point known as Engineer's Station 1085+60 which point is the intersection of the said surveyed center line and the section line common to Sections Thirty (30) and Thirty-one (31), Township Four North (T4N), Range Seventy Five West (R75W) of the Sixth Principal Meridian (6PM), said point bears N 89° 36' W and 276.5 feet from the quarter corner common to said Sections Thirty (30) and Thirty-one (31); thence S 89° 36' East a distance of 100.6 feet along the said section line common to Sections Thirty (30) and Thirty-one (31); thence along the arc of a 5820 foot radius curve to the right (the long chord of which bears S 7° 15' East for a distance of 132.8 feet) through a central angle of 1° 18' for a distance of 132.8 feet; thence S 6° 36' East a distance of 545.2 feet to the true point of beginning for the parcel of land herein described; said point being on the true line which is the latitudinal center line of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31); thence continuing S 6° 36' East a distance of 192.8 feet; thence along the arc of a 2785 foot radius curve to the left (the long chord of which bears S 9° 11' East a distance of 249.5 feet) through a central angle of 5° 10' for a distance of 249.5 feet to a point on the East boundary line of the North West Quarter (NW¼) of Section Thirty-one (31); thence S 1° 20' W a distance of 328.5 feet to a point known as Engineer's Station 1100+54.6 of the surveyed center line; thence S 1° 20' W a distance of 256.5 feet; thence N 22° 48' 30" W a distance of 42 feet; thence along the arc of a 2965 foot radius curve right (the long chord of which bears N 14° 41' 30" W a distance of 884.7 feet) through a central angle of 16° 10' 30" a distance of 836.7 feet; thence N 6° 36' W a distance of 197.3 feet; thence S 89° 50' E a distance of 201.2 feet along the latitudinal center line of the North East Quarter (NE¼) of the North West Quarter (NW¼) of said Section Thirty-one (31) to the true point of beginning. All containing 5.16 acres more or less.

All the above described tracts containing a total of 123.97 acres more or less.

upon the following terms, to-wit: for cash.

And it being the opinion of the Court that it would benefit the said estate to sell such real estate at private sale, due regard being had for the rights of all, it is ordered that said property be sold at private sale, at not less than the appraised value thereof; petitioners herein, either directly or indirectly, or by anyone for them, not to become the purchaser of said property or any part thereof;

And it being the opinion of the Court that it would benefit the said estate to sell such real estate, due regard being had for the rights of all, it is ordered that said property consisting of real estate herein described be sold for not less than $5,172.70;

That upon making such sale said petitioners shall thereupon report their action in the premises to this Court with all convenient speed.

It is further ordered that this cause stand continued to the 10th day of July, A. D. 1939, for hearing and action upon said report.

DONE IN OPEN COURT THIS 10TH DAY OF JULY, A. D. 1939.

BY THE COURT:

J. N. PETTINGELL
Judge.

07-24-1939: clerk of the county court of the county of grand, certify true and correct copy of the order to sell real estate

STATE OF COLORADO)
) ss.
County of Grand)

I, J. N. PETTINGELL, Clerk of the County Court of the County of Grand, do hereby certify the foregoing to be a true and correct copy of the Order to Sell Real Estate as the same remains on file and of record in my office, in the matter of the Estate of Annie Harbison, sometimes known as Anna Harbison, deceased.

WITNESS my signature and Seal of said Court this 24th day of July, A.D. 1939.

Clerk of the County Court
of Grand County.

18

12-30-1939: stamp of receival

52887

STATE OF COLORADO, }
County of GRAND } ss.
Filed for record this 30
day of Dec 1939
at 11:30 o'clock a M.
Recorded in Book 38 Page 130
[illegible] Recorder.
[illegible] Deputy.
Fees $ 4.75

1-1

4.75

THIS DEED, made this 31st day of July in the year of our Lord one thousand nine hundred and thirty-nine between James W. Kelley, sometimes known as J. W. Kelley of the County of Grand and State of Colorado, of the first part, and THE UNITED STATES OF AMERICA AND ITS ASSIGNS, of the second part:

WITNESSETH, That the said party of the first part, for and in consideration of the sum of $2500.00, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part and its assigns, all the following described water rights situate, lying and being in the County of Grand and State of Colorado, to-wit:

All of one and one hundred fifteen thousands cubic feet of water per second of time from the Harbison Ditch in County of Grand, State of Colorado, and more particularly described as follows:

It is intended to convey and transfer all ditch right-of-ways attached thereto. It is intended to convey, set over and transfer water rights owned by the vendor, whether adjudicated under the laws of the State of Colorado or otherwise; and it is also and specifically intended to convey, set over and transfer free of all encumbrances whatsoever all of his certain rights in and to the use of one and one hundred fifteen thousandths cubic feet of water per second of time (1.115 cu. ft. per sec.) of the waters of the Little North Inlet Stream, sometimes called Big Meadow Creek or Tonahutu Creek and/or its tributaries, within the State of Colorado, more particularly described as follows:

The right acquired under and by virtue of the laws of the State of Colorado to divert one and one hundred fifteen thousandths (1.115) cubic feet of water per second of time, for use during the entire year, said right having a priority of Number One Hundred Ninety-Nine (No. 199), as determined and established by decree of the District Court of Grand County, State of Colorado, in an action entitled "In The Matter of the Adjudication of Priorities To The Right To The Use of Water For Irrigation Purposes in Water District No. 51, in the State of Colorado. On application of Roy Adams and Kate Harbison", confirming said right unto Roy Adams and Kate Harbison which said decree was made on

August 3, 1911, and entered in Volume 1 at page 209, Water Adjudication Records of the District Court of Grand County, State of Colorado.

Together with the right acquired under and by virtue of the laws of the State of Colorado to divert one and one hundred fifteen thousandths cubic feet of water per second of time (1.115 cu. ft. per sec.) for use from the first day of November in each year to the fifteenth day of April in the succeeding year and from the fifteenth day of April to the first day of November in each year to so much as one and one hundred fifteen thousandths cubic feet of water per second of time (1.115 cu. ft. per sec.) thereof as shall not be used by the owners of the irrigation rights of the Harbison Ditch, Priority No. 199, said right having a priority No. 1, General Appropriation No. 1, and Stream No. 1, as determined and established by decree of the District Court of Grand County, State of Colorado, in an action entitled "In The Matter Of The Adjudication Of Priorities Of Right To The Use Of Water For Purposes Other Than Irrigation, in Water District No. 51, of the State of Colorado, on application of Roy Adams", confirming said right unto Roy Adams, which said Decree was made on July 21, 1911, and entered in Volume 1, at Page 172, Water Adjudication Records of the District Court of Grand County, State of Colorado.

It is intended that with the transfer of said water rights consent is thereby given for the use of said water rights for any purpose by the United States.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained water rights, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said property above bargained and described, with the appurtenances, unto the said party of the second part and its assigns, forever. And the said party of the first part, for himself, his heirs, executors, and administrators, does covenant, grant, bargain and agree to and

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with the said party of the second part and its assigns, that at the time of the ensealing and delivery of these presents, he is well seized of the property above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever, with no exception, and the above bargained premises in the quiet and peaceable possession of the said party of the second part and its assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.

James W. Kelley (SEAL)

J. W. Kelley (SEAL)

STATE OF COLORADO)
) ss.
County of Grand)

The foregoing instrument was acknowledged before me this 31st day of July, 1939, by James W. Kelley, sometimes known as J. W. Kelley.

WITNESS my hand and official seal.

Bruce Shurtliff
Clerk of District Court of
Grand County, Colorado.

06-18-1940: stamp of receival

53691

STATE OF COLORADO,
County of GRAND } ss.
Filed for record this 15th
day of June 1940
at 2 o'clock P. M.
Recorded in Book 88 Page 280
R O Zerbe
Recorder.
Fees $ 2.25 Deputy.

When Recorded Return
To
U. S. Commissioner
Rocky Mt. National Park
Estes Park, Colo.

Administrative Agreements

01-31-1984: letter to grand lake metropolitan recreation district from acting superintendent regarding renewal of former special use

File

L3031

January 31, 1984

Mr. Jack Wirsing
Grand Lake Metropolitan
Recreation District
Post Office Box 590
Grand Lake, Colorado 80447

Dear Mr. Wirsing:

Enclosed is a renewal of your former Special Use Permit #1529-9-0104 which expired the end of 1983. The new permit, #SP1529-84-0003 is written for a period of five years to expire December 31, 1988.

Inquiries in the more current water pricing indicate the charge of $1.50 per acre feet, which was the minimum rate set for the water in the 1960's, to be considerably low and we feel that doubling the price to $3.00 per acre feet would be very reasonable. We also recognize that the present method of measuring the water is not as accurate as it might be and we have hopes of installing a meter some time in the near future.

If this permit meets with your approval, please have all copies of the permit executed by the proper person or persons, have it witnessed, and return all copies to this office. Upon completion here, we will return one to you for your use.

Sincerely,

James W. Godbolt

James W. Godbolt
Acting Superintendent

Enclosures

LReed: HKeutzer:hsk

cc: West Unit Manager w/c permit

Normal Page Size — including attachments

SPECIAL USE PERMIT

PERMIT NO	EXPIRES
SP1529-84-0003	12/31/88
PREVIOUS PERMIT NO	
SP1529-9-0104	

Rocky Mountain National Park
(Area)

Grand Lake Metropolitan Recreation District, of Grand Lake, Colorado is hereby authorized during the period from January 1, 19 84, through December 31, 19 88, to use the following-described land in the above-named area:

The Harbison Ditch and a maximum of 1.5 cubic feet of water per second of time of United States owned water rights from said ditch from April 15 to November 1 of each year of this permit.

for the purpose of irrigating a public golf course

subject to the conditions on the reverse hereof and attached pages and to the payment to the Government of the United States of the sum of Three and no/100 Dollars ($**3.00), in advance per acre feet of water (Monthly, semiannually, etc.), or as follows:

annually upon receipt of Bill for Collection from National Park Service

payment to be made to the Superintendent by Express or Postal Money Order, Certified Check, or Draft payable to the National Park Service, or Cash.

Issued at Estes Park, Colorado (City), this 1st day of February, 19 84

Superintendent.

The undersigned hereby accepts this permit subject to the terms, covenants, obligations, and reservations, expressed or implied, therein.

TWO WITNESSES TO SIGNATURES	* PERMITTEE (Signature)
NAME	NAME
ADDRESS	ADDRESS
NAME	NAME
ADDRESS	ADDRESS

APPROVED: (*If approval is required by higher authority*)

NAME	TITLE	DATE

*Sign name or names as written in body of permit; for copartnership, permittees should sign as "members of firm"; for corporation, the officer authorized to execute contracts, etc., should sign, with title, the sufficiency of such signature being attested by the Secretary, with corporate seal, in lieu of witnesses.

14—25008-6

Distribution — Field Finance Office

SPECIAL USE PERMIT CONTINUATION SHEET

AREA	PERMIT NO	PAGE NO.
Rocky Mountain National Park	SP1529-84-0003	3

16. The Recreation District will be permitted to use 1.5 cubic feet per second of the Federally owned water right from the Harbison Ditch diversion, and the use of said ditch across park land.

17. Any reconditioning or maintenance of the Harbison Ditch necessary to provide transport for all water rights in the ditch shall be made by the Recreation District without any expense to the United States. Further, all reconditioning or maintenance work shall be accomplished to the satisfaction of the United States.

18. The Recreation District shall only be permitted to use water under this permit during the period of April 15 to November 1 of each year.

19. An annual fee shall be paid by the Recreation District to the United States for the water at a rate of $3.00 per acre foot and payable upon receipt of Bill for Collection from the National Park Service.

20. A satisfactory means of determining the amount of water used each year shall be provided and installed by the Recreation District. Until such time as an actual water meter is installed, the method used to determine the amount of water used will be based on the letter dated October 17, 1963, to the Grand Lake Metropolitan Recreation District from the Park Superintendent's Office and as summarized below:

1. Hour meter reading as obtained from Mountain Parks Electric.

2. Multiply meter hours by meter constant of 160 to give KWH's.

3. KWH's divided by the 51 KWH rating of 100 HP pump equals hours of operation.

4. Hours of operation times pump capacity 60,000 GPH derated to 85% of capacity divided by gallons/acre foot. Gives total acre feet.

5. Total acre feet x $3.00 equals charges to be billed to the Recreation District.

21. In addition to being revocable at the discretion of the Director, it is understood and agreed that this permit shall be revoked if and when the United States needs the entire or any portion of the 1.5 cubic feet per second of time of water and use of Harbison Ditch irrespective of the unexpired life of the permit.

22. The Permittee agrees to hold the United States free and harmless from any and all claims for injuries to persons or damage to property resulting from the exercise of the privileges granted by this permit.

☆U. S. GOVERNMENT PRINTING OFFICE: 1976 624-691

02-02-1968: special use permit 14-10-2-121-52

Form 10-114
(Rev. Oct. 1958)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

This permit consists of _____ pages

PERMIT NO.	EXPIRES
14-10-2-121-52	12/31/72
PREVIOUS PERMIT NO.	14-10-2-121-52

SPECIAL USE PERMIT

Rocky Mountain National Park
(Area)

The Grand Lake Metropolitan Recreation District of Grand Lake, Colorado is hereby authorized during the period from July 1 JANUARY 1, 1968 to December 31, 1972;
73 78

to use the following-described land in the above-named area:

The Harbison Ditch and a maximum of 1.5 cubic feet of water per second of time of United States owned water rights from said ditch from April 15 to November 1 of each year of this permit.

for the purpose of Irrigating a public golf course.

subject to the conditions on the reverse hereof and attached pages and to the payment to the Government of the United States of the sum of One and One Half - Dollars ($ 1.50), in advance _____ (Monthly, semiannually, etc.), or as follows: per acre foot of water

payment to be made to the Superintendent by Express or Postal Money Order, Certified Check, or Draft payable to the National Park Service, or Cash.

Issued at Estes Park, Colorado (City), this FEB 2 1968 day of _____, 19__

/s/ Fred J. Novak

~~Fred J. Novak~~ ROGER J. CONTOR, Superintendent

The undersigned hereby accepts this permit subject to the terms, covenants, obligations, and reservations, expressed or implied, therein.

TWO WITNESSES TO SIGNATURES	* PERMITTEE (SIGNATURE)
NAME Edsel H. Ward	NAME Gordon R. Spitzmiller
ADDRESS Box 585, Grand Lake, Colorado	ADDRESS Box 536, Grand Lake, Colorado
NAME R. H. Randall	NAME John A. Dillie
ADDRESS Box 116 - Grand Lake, Colorado	ADDRESS Star Route, Granby, Colorado

APPROVED: (If approval is required by higher authority)

NAME	TITLE	DATE

*Sign name or names as written in body of permit; for copartnership, permittees should sign as "members of firm"; for corporation, the officer authorized to execute contracts, etc., should sign, with title, the sufficiency of such signature being attested by the Secretary, with corporate seal, in lieu of witnesses.

DISTRIBUTION: Fee Permit: To Superintendent's File. No Fee Permit: NOT USED.

10-29-1968: narrative of special use permit 14-10-2-121-52: irrigation water for grand lake metropolitan recreation district

Administrative Officer, Rocky Mountain October 29, 1968

Chief of Park Maintenance

Special Use Permit 14-10-2-121-52, Irrigation Water for the Grand Lake Metropolitan Recreation District

This subject Special Use Permit covers the period from July 1, 1968 to December 31, 1972, and it is the same as the previous permit with a rate of $1.50 per acre foot of water.

The quantity of water used per season for this golf course is arrived at by the number of hours their irrigation supply pump operates, per letter dated October 17, 1963, to the Grand Lake Recreation District from the Park Superintendent's Office.

The Meter readings for this year, 1968, were obtained from Mountain Parks Electric. The last reading was 1384, less the first reading of 1191, which equals 193. This 193 is multiplied by the meter constant of 80, which equals 15,440 KW hours.

This 15,440 KW hours is then divided by the 51 KW rating of 100 HP pump to arrive at the total hours of operation of 304 hours.

Factors:

304 total hours pump operation
60,000 GPM - pump capacity
0.85 Estimated percentage of total capacity to golf course
325,800 gallons/acre foot

$$304 \text{ hours} \times 60{,}000 \text{ GPM} \times 0.85 \times \frac{1}{325{,}850} = \text{Acre Feet}$$

= 47.6 acre feet of water @ $1.50/acre foot = $71.40

This is the amount to be billed to the Recreation District. It just happens to be the same as the billed amount for last year, 1967.

(SGD) PAUL R. MULCAHY

Paul R. Mulcahy

cc:
Foreman IV Waller
Maintenance Clerk Grey
Foreman III, Calender
Foreman III, Bennett
Central Files

January 17, 1972

Memorandum

To: Administrative Officer

From: Chief of Maintenance

Subject: Special Use Permit 14-10-2-121-52, Irrigation Water For The Grand Lake Metropolitan Recreation District. (Golf Course)

This permit covers the period July 1, 1968 to December 31, 1972. The rate of $1.50 per acre foot is the same as previous permit.

The amount of water used per season is determined by the number of hours the irrigation pump operates, per letter dated Oct. 17, 1963 to the Grand Lake Recreation District from the Park Superintendent's office.

The meter readings for 1971 were obtained from Mountain Parks Electric. They were 0091 to 0310 meter hours multiplied by the meter constant of 80 or 219 X 80 = 17,520 KWH.

KWH of 17,250 is then divided by the 51 KW rating of the 100 HP pump to obtain the number of hours of operation.

Factors: 17,250 divided by 51 = 343 hours of operation.

Pump capacity is 60,000 GPH derated to 85% of capacity.
343 x 60,000 x .85 x 1/325,850/1 = 53.68 acre feet.

53.68 acre feet x $1.50 = $ 80.52

The above amount should be billed to the Grand Lake Recreation District.

Paul R. Mulcahy
Chief of Maintenance

cc/ Mainte. Office
West Side Maint. Office

Administrative Officer, Rocky Mountain December 2, 1969

Chief of Park Maintenance

Special Use Permit 14-10-2-121-52, Irrigation Water for the Grand Lake Metropolitan Recreation District

This subject Special Use Permit covers the period from July 1, 1968 to December 31, 1972, and it is the same as the previous permit with a rate of $1.50 per acre foot of water.

The quantity of water used per season for this golf course is arrived at by the number of hours their irrigation supply pump operates, per letter dated October 17, 1963, to the Grand Lake Recreation District from the Park Superintendent's Office.

The meter readings for this year, 1969, were obtained from the Mountain Parks Electric. The last reading was 1590, less the first reading of 1384, which equals 206. This 206 is multiplied by the meter constant of 80, which equals 16,480 KW hours.

This 16,480 KW hours is then divided by the 51 KW rating of 100 HP pump to arrive at the total hours of operation of 323 hours.

Factors:

323 total hours pump operation
60,000 GPM - pump capacity
0.85 Estimated percentage of total capacity to golf course
325,800 gallons/acre foot

$$323 \text{ hours} \times 60{,}000 \text{ GPH} \times 0.85 \times \frac{1}{325{,}800} = \text{Acre Feet}$$

= 50.6 acre feet of water @ $1.50/acre foot = $75.90

This is the amount to be billed to the Recreation District.

(SGD) PAUL R. MULCAHY

Paul R. Mulcahy

cc:
Foreman IV Waller
Maintenance Clerk Grey
Foreman III, Calender
Foreman III, Dennett
Central Files

Other Supporting Information

10-02-1989: note from ken to craig

Rocky Mountain National Park
ESTES PARK, CO 80517

Ken,

Here are the meals you wanted --

Craig

Received OCT 02 1989
Water Resources Branch

L3031

May 8, 1989

Mr. D. W. Stover
Grand Lake Metropolitan Recreation District
P.O. Box 590
Grand Lake, CO 80447

Dear Mr. Stover:

The Special Use Permit (SP 1529-84-0003) allowing sale to the District of 1.5 cubic feet of water in Harbison Ditch expired on December 31, 1988.

If you wish to renew this permit please contact Larry Reed, West Unit Manager, at your earliest convenience.

Sincerely,

(Sgd) James B. Thompson

James B. Thompson
Superintendent

cc:
MA
WUM

FCFiala:bb:5/8/89

05-15-1989: letter to national park service from board of directors regarding the renewal of the special use permit (sp 1529-84-000

GRAND LAKE METROPOLITAN RECREATION DISTRICT
P.O. Box 590
1111 County Road 48 (a/k/a Golf Course Road)
Grand Lake, Colorado 80447

Pro Shop (303) 627-8226 Maintenance (303) 627-3429

May 15, 1989

Larry Reed
National Park Service
Rocky Mountain National Park

Dear Larry:

This is to inform you that the Grand Lake Metropolitan Recreation District wishes to renew the special use permit (sp 1529-84-0003), allowing sale to the District of 1.5 cubic feet of water in the Harbison Ditch.

Thank you for you cooperation.

Sincerely,

D.W. Schlosser
President-GLMRD
Board of Directors

Owen,

The Grand Lake Metropolitan Water District is still trying to secure a water supply to their golf course just outside Romo.

Previously, they applied for rights to 1.5 cfs from Tonahutu Creek through Harbison Ditch. The NPS apparently opted not to protest this application due to the very late priority date and that NPS approval would be required before any work could be done to make the ditch suitable for the extra volume.

To protect NPS water rights the WRB was to apply for changes in purpose of use and point of diversion for its two rights on Harbison Ditch. This was to secure instream flows on Tonahutu Creek. I believe that 1.5 cfs of NPS water was to remain in Harbison Ditch to supply water for the golf course as it has done since 1963 under a series of 5-year Special Use Permits. The last Special Use permit was to expire 12/31/88 and I am not sure if it was renewed.

In any case, GLMWD is owner of a 0.625 cfs right on Cairns #3 ditch with 1885 priority. They are now seeking to change this diversion point to the Harbison Ditch. Our priority dates are 1894 and 1896.

We have until 2/28 to file a formal protest if we need to.

Ken worked on this before so he might know if NPS already discussed this with GLMWD.

Beth

16. Case No. 88CW402, GRAND LAKE METROPOLITAN RECREATION DISTRICT, P.O. Box 590, Grand Lake, CO 80447(303) 627-8226 (c/o Charles N. Woodruff, Esq. and Veronica A. Sperling, Esq., Moses, Wittemyer, Harrison and Woodruff, P.C., P.O. Box 1440, Boulder, CO 80306). Application for Change of Water Right in GRAND COUNTY. Decreed name of structure for which change is sought: Cairns No. 3 Ditch. Prior previous decree: A. Date entered: August 11, 1906, Case No.: N/A, Court: District Court, Grand County. B. Decreed point of diversion (include map): On the west bank of the North Inlet to Grand Lake, at a point whence the Northeast Corner of Section 5, T3N, R75W, bears East 33°15' North, 2973 feet, Grand County, Colorado. The decreed point of diversion is shown on the map attached to the application as Exhibit A. C. Source: North Inlet to Grand Lake, tributary to the Colorado River. D. Appropriation date: September 1, 1885. Amount: 0.625 cfs.) E. Historic use: The Cairns No. 3 Ditch water right has historically been used to irrigate approximately 25 acres of hay meadows located in portions of the SE¼ NE¼ and NE¼ SE¼ of Section 6, Township 3 North, Range 75 West of the 6th P.M., Grand County, Colorado. The approximate location of the historic use of applicant's Cairns No. 3 Ditch water right is shown on the map attached to the application as Exhibit A. Proposed change: (a) Applicant seeks to change the point of diversion of the Cairns No. 3 Ditch from its presently decreed location described above to the headgate of the Harbison Ditch on Tonahutu Creek, a tributary of the North Inlet to Grand Lake, and to change the place of use of the Cairns No. 3 Ditch water right from the historically irrigated lands to applicant's public golf course located as described in paragraph 4(b) below. (b) Applicant seeks entry of a decree herein changing the decreed point of diversion and place of use of the Cairns No. 3 Ditch water right to the following new point of diversion and new place of use: New point of diversion: At the headgate of the Harbison Ditch located on Tonahutu Creek at a point in Section 32, T4N, R75W, 6th P.M., from whence the East Quarter Corner of Section 31, T4N, R75W, bears South 31°50' West, 2491.5 feet. Tonahutu Creek is tributary to the North Inlet to Grand Lake. New place of use: Applicant proposes to use the Cairns No. 3 Ditch water right as a supplemental source of irrigation water for its public golf course located in portions of the NE¼ NE¼ of Section 2, T3N, R76W, 6th P.M., and portions of the NW¼ NW¼, S½ NW¼, and NW¼ SW¼ of Section 1, T3N, R76W, 6th P.M., Grand County, Colorado. (c) No change in type of use is proposed. (d) No change in the amount previously adjudicated is proposed. (e) Applicant proposes to divert the water previously diverted at the headgate of the Cairns No. 3 Ditch on the North Inlet to Grand Lake at the headgate of the Harbison Ditch on Tonahutu Creek which is tributary to the North Inlet to Grand Lake. The headgate of the Harbison Ditch is located approximately 1 mile upstream on Tonahutu Creek from the headgate of the Cairns No. 3 Ditch. Water diverted at the headgate of the Harbison Ditch will be used as a supplemental water supply for irrigation of approximately 120 acres of applicant's public golf course. The average annual historic consumptive use for irrigation of the historically irrigated lands has been 1 acre-foot per acre or 25 acre-feet. Irrigation by applicant at its public golf course is 75 percent efficient. In order to prevent injury to other water rights, applicant proposes to limit its diversions at the headgate of the Harbison Ditch under the Cairns No. 3 Ditch water right to 33 acre-feet per year at a maximum rate of diversion of 0.625 cfs. Names and addresses of owners of land on which structures are located: Cairns No. 3 Ditch: Unknown. Harbison Ditch: United States Department of the Interior, National Park Service c/o Superintendent Rocky Mountain National Park and Shadow Mountain National Recreation Area, Estes Park, Colorado 80517.

17. 88CW403 ANDY L. and GLENDA F. FONTANARI; c/o Mark Hermundstad, Esq.; P.O. 338; Grand Junction, CO 81502. Application for Water Storage Right - RIO HONDO POND in MESA COUNTY. Legal description: the outlet of the dam is located as follows: beginning at a point from whence the north quarter corner of Section 23, T. 11 S., R. 101 W., 6th P.M. bears North 29°04'30" West 1,341.88 feet, thence North 04°49' East 222.2 feet, thence east approximately 825 feet to the outlet of the dam. Source: seepage and waste water from irrigation above the pond, and water flowing in an unnamed tributary of the COLORADO RIVER upon which the pond is located. Appropriation: June 15, 1988. Amount: 2.5 a.f. conditional. Use: recreation, wildlife propagation and conservation, piscatorial and stock watering. (4 pages)

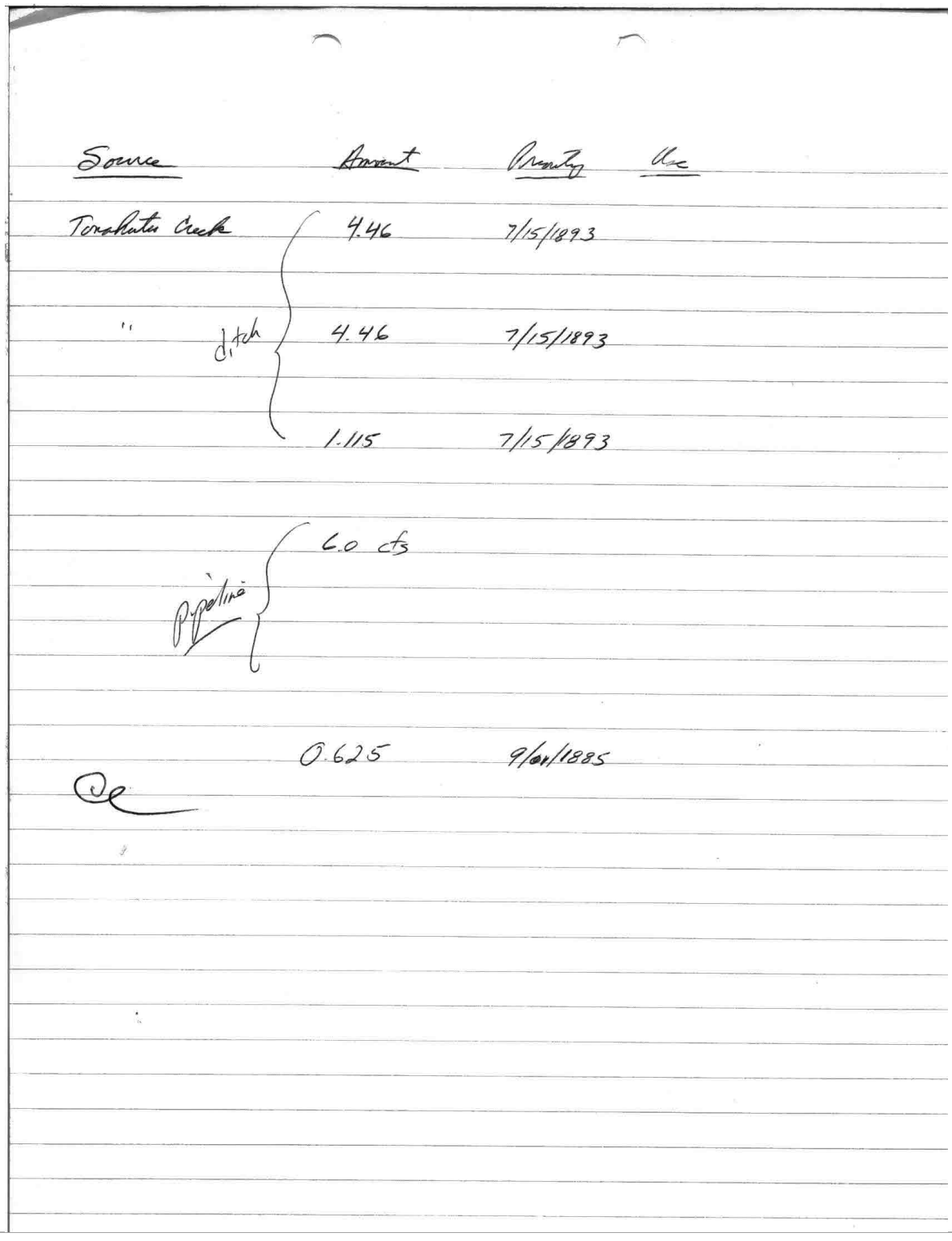
18. Case No. 88CW404. Fraser Valley Metropolitan Recreation District, Post Office Box 3340, Winter Park, CO 80482, (3 0 3) 726-8968 (Timothy R. Buchanan, P.C., 2500 North Broadway, Suite 200, Boulder, CO 80302, 443-9898), Application to Make Absolute a Conditional Water Right, in GRAND County. 2. Name of Structure: Clubhouse Well. 3. Description of Water Right: a. Date of Original Decree: July 10, 1985, Case No. 84CW558, Water Division No. 5. b. Location: The Clubhouse Well is located in the SW1/4 SW1/4, Section 4, T1S, R76W of the 6th P.M. at a point 1140 feet from the South section line and 1210 feet from the West section line of said Section 4. c. Source: Groundwater tributary to Pole

Creek, a tributary of the Fraser River. d. Appropriation Date: February 15, 1984. Amount: 15 g.p.m. e. Use: Golf club purposes, which include irrigation of the golf course, the maintenance of ponds, clubhouse uses including uses associated with tennis courts and swimming pools, the irrigation of trees, plants and shrubs on the golf course and around the club house and other facilities, and the use of the water for domestic clubhouse purposes. Golf club purposes does not include the use of water for subdivision and residential purposes. f. Depth: 260 feet. 4. Detailed Outline of Completion of Appropriation and Application of Water to Beneficial Use Including Expenditures: The Applicant is the owner of the Pole Creek Golf Course located in Sections 4, 5, 8 and 9, T1S, R76W of the 6th P.M. The Clubhouse Well was issued Well Permit No. 285900F on June 14, 1985, and a pump was installed in the well on June 15, 1985. The well has been used as an alternate point of diversion pursuant to the terms of the decree entered in Case No. 84CW558, and water has been diverted from the well pursuant to the priority decreed in Case No. 84CW558. Water has been diverted pursuant to the priority decreed to the Clubhouse Well at a rate of 15 g.p.m., both during the summer season of April 15 through September 30 of each year since construction of the well and during the winter season of October 1 through April 14 of each year. Since December 1984, approximately $4,500.00 has been spent by the Fraser Valley Metropolitan Recreation District in order to enable the Clubhouse Well water right to be applied to beneficial use. These expenditures include the drilling of the well and installation of the pump and associated equipment for the Clubhouse Well. 5. Water Applied to Beneficial Use: a. Date first applied to beneficial use: June 15, 1985. Amount: 15 g.p.m. Use: The Clubhouse Well water right has been used for golf club purposes which include irrigation of the golf course, the maintenance of ponds, clubhouse uses which include uses associated with tennis courts and swimming pools, the irrigation of trees, plants and shrubs on the golf course and around the clubhouse and other facilities, and the use of water for domestic clubhouse purposes. b. Description of Place Where Water is Applied to Beneficial Use: The Clubhouse Well water right was applied to beneficial use on the Pole Creek Golf Course which is located in Sections 4, 5, 8 and 9, T1S, R76W of the 6th P.M. The Clubhouse Well itself is located in the SW1/4 SW1/4, Section 4, T1S, R76W of the 6th P.M. at a point 1140 feet from the South section line and 1210 feet from the West section line of said Section 4. WHEREFORE, Applicant requests the Court enter a decree finding and determining that Applicant (1) has exercised reasonable diligence in the development of the water right decreed in Case No. 84CW558, (2) has applied the conditional water right decreed in Case No. 84CW558 to beneficial use, and (3) that the conditional water right decreed in Case No. 84CW558 is now an absolute water right. (4 pp.)

19. 88CW405 BARBARA SANCHEZ; c/o Mark Williams, Esq.; P.O. Box 23; Grand Junction, CO 81502. Application for Water Rights (Surface) - HOWARD O. HARRIS SPRINGS #1, #2, #3, #4, #5 and #6 in MESA COUNTY. Legal description: Howard O. Harris Spring #1 - located North 42°03'49" West 1,666.11 feet from the Southeast corner Section 27 (MCSM 476 Brass Cap), T. 9 S., R. 95 W., 6th P.M., Howard O. Harris Spring #2 - located North 44°52'08" West 1,618.34 feet from the Southeast corner Section 27 (MCSM 476 Brass Cap), T. 9 S., R. 95 W., 6th P.M., Howard O. Harris Spring #3 - located North 50°28'42" West 1,557.79 feet from the Southeast corner Section 27 (MCSM 476 Brass Cap), T. 9 S., R 95 W., 6th P.M., Howard O. Harris Spring #4 - located North 52°18'39" West 1,548.61 feet from the Southeast corner Section 27 (MCSM 476 Brass Cap), T. 9 S., R. 95 W., 6th P.M., Howard O. Harris Spring #5 - located North 54°03'12" West 1,521.44 feet from the Southeast Corner Section 27 (MCSM 476 Brass Cap), T. 9 S., R. 95 W., 6th P.M., Howard O. Harris Spring #6 - located North 55°02'26" West 1,513.36 feet from the Southeast corner Section 27 (MCSM 476 Brass Cap), T. 9 S., R. 95 W., 6th P.M. Source: all springs are tributary to Kimball Creek, tributary to Plateau Creek, tributary to the COLORADO RIVER. Appropriation: April 15, 1905. Amount: 0.5 c.f.s. for all of the springs, absolute. Use: domestic and irrigation. (4 pages)

20. 88CW406 MARTINA NAVRATILOVA; c/o Kirk Holleyman, Esq.; 730 17th St., Suite 730; Denver, CO 80202. Application for Water Rights (Surface) - HAYDEN PEAK DITCH NO. 1 and HAYDEN PEAK DITCH NO. 2 in PITKIN COUNTY Legal description: Hayden Peak Ditch No. 1 - begins 790 feet North of the south line and 890 feet East of the west line of the SW1/4SW1/4 Section 18, T. 11 S., R. 84 W., 6th P.M. (protracted), Hayden Peak Ditch No. 2 - begins 1,910 feet North of the south line and 170 feet West of the east line of the

00-00-0000: notes on the amount of water received from tomahatu ditch and the year aquired for each diversion



Source		Amount	Priority	Use
Tomahatu Creek		4.46	7/15/1893	
"	ditch	4.46	7/15/1893	
		1.115	7/15/1893	
	pipeline	6.0 cfs		
		0.625	9/01/1885	

WATER RIGHTS BRANCH INFORMATION TRACKING SYSTEM

ISSUES AND CONCERNS

ID#: F:4ROMOWRB.IT1 ISSUE TITLE: Harbison Ditch/Tonahuto Creek

REGION: Rocky Mountain UNIT: Rocky Mountain National Park

CONTACTS:

Name: Larry Reed Title: West Unit Mgr., ROMO Phone: (707) 464-6101

WRB Lead Contact: Ken Czarnowski

ISSUE/CONCERN:

The Grand Lake Metropolitan Recreation District has applied to Colorado Water Division 5, Water Court for a conditional water right for 1.5 cfs from Tonahutu Creek which flows through ROMO. The Recreation district currently diverts flows through ROMO. The Recreation District currently diverts this amount of water from the creek through Harbison Ditch under a five-year special use permit. This water is owned by the Park and leased to the Recreation District. Although the Park does not intend to retract the agreement, the Recreation District has unsuccessfully sought a longer term pact.

ACTION PLAN

1. Review dockets for information on ROMO water rights.
2. Discuss situation with ROMO West Unit Manager.
3. Contact Colorado Water Court Division 51 Commissioner, and District 5 Water Court.
4. Review special use permit.
5. Recommend response to ROMO on possible opposition to the application.

DATE:	COMMENTS:
02/23/87	Larry Reed notified Scott Brown of the Recreation District's filing. He had been notified by Jim Daxton, District 51 Water Commissioner (726-5253 in Granby). Reed noted that the Recreation District currently diverts 1.5 cfs through Harbison Ditch under a special use permit. (Used April 1 to November 1.)

The term of this permit is five years, and the Recreation District has attempted to lengthen it, which is not allowed under NPS policy. The Ditch also carries 1.115 cfs owned and used by the Columbine Lake Water and Sanitation District. This total, 2.615 cfs is the upper limit of the ditch capacity. However, ROMO has a right to 3.345 cfs on Tonahutu Creek. It currently allows the portion not leased to flow in stream.

02/27/87 Larry Reed sent the WRB information not contained in our docket (#23) including a copy of the special use permit.

03/05/87 Walter Rusinek spoke with Jim Daxton who referred me to the District 5 Water Court.

03/09/87 The Water Court sent copies of applications pertaining to the ditch filed by the Recreation District, and by the Columbine Lake Water and Sanitation District. Received copies on 3/16/87.

03/20/87 Walter Rusinek spoke with Hal Bishop (Denver, 455-2760) an engineer for both Districts. He explained that both applications were made to allow the Districts to exchange water rights they own in the Windy Gap project with their rights on Tonahutu Creek. This will allow them to use the creek water more consumptively, and supply senior downstream users with Windy Gap water. He said that neither group intends to expand the ditch capacity, which he estimated to be around 4 cfs. He also claimed that the CLWSD owns two rights appurtenant to the ditch: a 4.6 cfs right (#1) for fish propagation, and 1.115 cfs (#199) for irrigation. He said the U.S. owns the remainder of #199 (3.345 cfs). The attached sheet deals with our research on the water rights issue.

03/24/87 Water Court sent a copy of Civil Action #2502 (W2502, August 12, 1976) concerning the water rights of CLWSD.

03/25/87 Request to Lee Garrison (Lands Division) for copies of all pertinent deeds. Received copies 3/31/87.

SUMMARY

After internal discussions (Scott Brown, Walter Rusinek, Owen Williams), we have concluded that the Recreation District's action should not threaten ROMO. Moreover, we feel that it will be hard to persuade the Water Court not to grant the conditional right. Moreover, while the Park desires to have water run through the ditch for its aesthetic appeal, the Recreation District's action actually protects the Park's wishes. Only an attempt by the Recreation District to enlarge the ditch, something they say they are not interested in doing, would possibly be detrimental. Thus, we recommend that the United States not oppose the application.

The Park, however, should file a change of use application for the water it

does not divert from Tonahutu Creek. Such an action would protect that part of the Park's right, and help resolve the issue of water rights in the ditch. Attached is a sheet outlining the conclusions of the WRB concerning those water rights.

FNP:Rusinek:bv:10/9/87:221-5341:4romowrb.itl

03-12-0000: report of telephone conversation regarding the diversion of 0.6 cfs to the grand lake metropolitan water district

REPORT OF TELEPHONE CONVERSATION

DATE 3/12 TIME 1140 (AM)/PM

PROJECT Harbison Ditch

NPS PERSON ON CALL: Ken Czarnowski ☐ I CALLED ☒ S/(HE) CALLED

PERSON Frank Fiala

ORGANIZATION RoMO

ADDRESS

TELEPHONE NO. 1-586-2371 EXT.

SUBJECTS DISCUSSED Frank called and indicated that the issue of the Grand Lake Metropolitan Recreation District and their application for 0.6 cfs to be diverted through the Harbison ditch was discussed at a staff meeting today at RoMO. Apparently the Supt. is opposed to the diversion of an additional 0.6 cfs thru the ditch and if he wants to prevent the Grand Lake Met. Rec. District (GLMRD) from diverting, what basis does he have?

I pointed out to Fiala the inconsistency of our position as stated in the Supt's letter of Sep 10, 1976.

Also, since the NPS does not have instream flow rights for Tonahutu Creek, we may not have a basis to protest the application by claiming injury.

Nevertheless, the Supt. apparently wants to meet with the WRB? and the Regional Solicitor to try to determine what his legal position is. I told Fiala that I would discuss this with Owen and call him back on Friday (4/14)

(over)

ACTION TO BE TAKEN Call Fiala re WRB's advice.

COPIES TO:

- We now lease the to GLMWRD 1.5 cfs thru a special use permit
- What if they demand an additional 0.6 cfs thru Harbison Ditch?
- What is the ditch capacity? If it is inadequate, can they fix it so it will carry the water they want?
- Do we have any Federal Reserved Rights that can be acquired?

03-09-1989: telephone conversation sheet regarding water right application 88cw402

TELEPHONE CONVERSATION

DATE 03-09-89 TIME 11:04 (AM)/PM

PROJECT ROMO,

NPS PERSON ON CALL: Alice Johns ☒ I CALLED ☐ S/HE CALLED

PERSON Frank Fiala

ORGANIZATION ROMO

ADDRESS

TELEPHONE NO. ~~03~~ 1-586-2371 EXT.

I called in response to Frank's inquiry 2 days ago, re: what to do about this appl.

SUBJECTS DISCUSSED I first let him know that the period for protest had expired. I explained to Frank the WRB's rationale (re) water right application no. 88CW402, which appeared in the Dec. resume (later I found out) told him that we had also spotted the application, but ~~felt it should~~ Our recommendation was that no protest be filed, and that it was a matter of consistency. I read to him excerpts from the 1976 letter from Supt to CLMRO (attached) and explained to him also that they (CLMRO) had filed a plan of augmentation concerning the Harbison Ditch, in 1987, and that the NPS did not protest. I also said that the WRB should have contacted the park, that ~~the~~ most of the players involved had been traveling, I said that DOJ would probably have a hard time opposing the application because of the matter of inconsistency. He said he was not sure that the Park was in agreement with that (decision not to oppose) up here, that the S.U.P. authority to use Harbison Ditch had expired, and that ROMO's position was to deny any increased amount in the ditch. I said that it sounded that he could handle the issue through the

ACTION TO BE TAKEN

COPIES TO:

S. U. P. authority. He said that's the saving grace.
I again, but not in an overbearing manner, pointed out that the route of protesting the right would have been problematic because of lack of consistency, and that DOJ would not want to ~~handle~~ ~~take~~ it on because of that prob.

I also pointed out to him the importance of sep. the water rights issue from the SUP -- land use authority issue -- He seemed to be well aware of this need.

~~I again~~

Owen Williams/Ken Czarnowski/Beth Voelkel 2/21/89

Because the NPS has no instream flow rights in Tonohutu Creek there is no basis to protest application by claiming injury.

Also note that, in 1976 or so, the Park stated that they'd have no objection to this type of water right transfer for supplying the golf course.

Therefore we chose not to file a protest to this application but will continue to keep note of this issue if further developments arise.

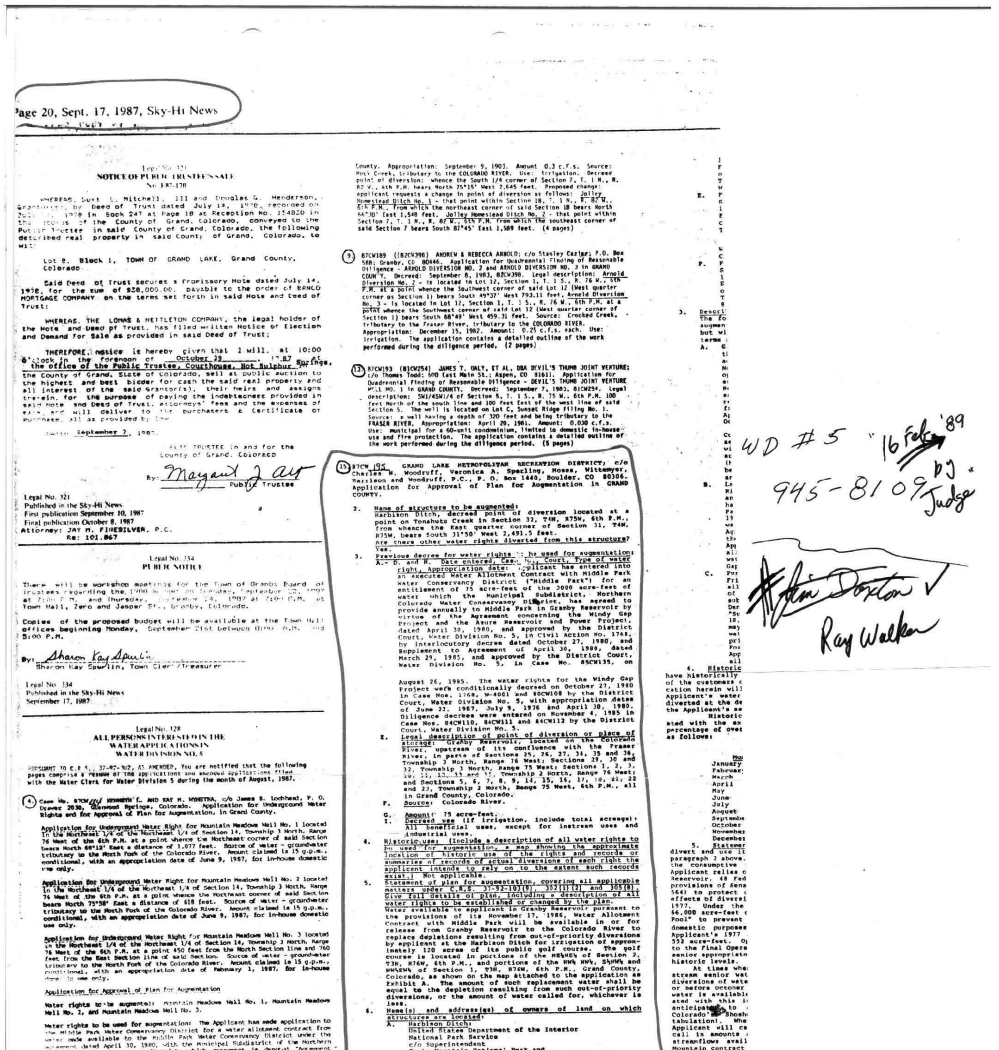
WDS Wtr Charge Nbr
Fish, Bio,

16. Case No. 88CW402, GRAND LAKE METROPOLITAN RECREATION DISTRICT, P.O. Box 590, Grand Lake, CO 80447(303) 627-8226 (c/o Charles N. Woodruff, Esq. and Veronica A. Sperling, Esq., Moses, Wittemyer, Harrison and Woodruff, P.C., P.O. Box 1440, Boulder, CO 80306). Application for Change of Water Right in GRAND COUNTY. Decreed name of structure for which change is sought: Cairns No. 3 Ditch. From previous decree: A. Date entered: August 11, 1906, Case No.: N/A, Court: District Court, Grand County. B. Decreed point of diversion (include map): On the west bank of the North Inlet to Grand Lake, at a point whence the Northeast Corner of Section 5, T3N, R75W, bears East 33°15' North, 2973 feet, Grand County, Colorado. The decreed point of diversion is shown on the map attached to the application as Exhibit A. C. Source: North Inlet to Grand Lake, tributary to the Colorado River. D. Appropriation date: September 1, 1885. Amount: 0.625 cfs. E. Historic use: The Cairns No. 3 Ditch water right has historically been used to irrigate approximately 25 acres of hay meadows located in portions of the SE¼ NE¼ and NE¼ SE¼ of Section 6, Township 3 North, Range 75 West of the 6th P.M., Grand County, Colorado. The approximate location of the historic use of applicant's Cairns No. 3 Ditch water right is shown on the map attached to the application as Exhibit A. Proposed change: (a) Applicant seeks to change the point of diversion of the Cairns No. 3 Ditch from its presently decreed location described above to the headgate of the Harbison Ditch on Tonahutu Creek, a tributary of the North Inlet to Grand Lake, and to change the place of use of the Cairns No. 3 Ditch water right from the historically irrigated lands to applicant's public golf course located as described in paragraph 4(b) below. (b) Applicant seeks entry of a decree herein changing the decreed point of diversion and place of use of the Cairns No. 3 Ditch water right to the following new point of diversion and new place of use: New point of diversion: At the headgate of the Harbison Ditch located on Tonahutu Creek at a point in Section 32, T4N, R75W, 6th P.M., from whence the East Quarter Corner of Section 31, T4N, R75W, bears South 31°50' West, 2491.5 feet. Tonahutu Creek is tributary to the North Inlet to Grand Lake. New place of use: Applicant proposes to use the Cairns No. 3 Ditch water right as a supplemental source of irrigation water for its public golf course located in portions of the NE¼ NE¼ of Section 2, T3N, R76W, 6th P.M., and portions of the NW¼ NW¼, S½ NW¼, and NW¼ SW¼ of Section 1, T3N, R76W, 6th P.M., Grand County, Colorado. (c) No change in type of use is proposed. (d) No change in the amount previously adjudicated is proposed. (e) Applicant proposes to divert the water previously diverted at the headgate of the Cairns No. 3 Ditch on the North Inlet to Grand Lake at the headgate of the Harbison Ditch on Tonahutu Creek which is tributary to the North Inlet to Grand Lake. The headgate of the Harbison Ditch is located approximately 1 mile upstream on Tonahutu Creek from the headgate of the Cairns No. 3 Ditch. Water diverted at the headgate of the Harbison Ditch will be used as a supplemental water supply for irrigation of approximately 120 acres of applicant's public golf course. The average annual historic consumptive use for irrigation of the historically irrigated lands has been 1 acre-foot per acre or 25 acre-feet. Irrigation by applicant at its public golf course is 75 percent efficient. In order to prevent injury to other water rights, applicant proposes to limit its diversions at the headgate of the Harbison Ditch under the Cairns No. 3 Ditch water right to 33 acre-feet per year at a maximum rate of diversion of 0.625 cfs. Names and addresses of owners of land on which structures are located: Cairns No. 3 Ditch: Unknown. Harbison Ditch: United States Department of the Interior, National Park Service c/o Superintendent Rocky Mountain National Park and Shadow Mountain National Recreation Area, Estes Park, Colorado 80517.

17. 88CW403 ANDY L. and GLENDA F. FONTANARI; c/o Mark Hermundstad, Esq.; P.O. 338; Grand Junction, CO 81502. Application for Water Storage Right - RIO HONDO POND in MESA COUNTY. Legal description: the outlet of the dam is located as follows: beginning at a point from whence the north quarter corner of Section 23, T. 11 S., R. 101 W., 6th P.M. bears North 29°04'30" West 1,341.88 feet, thence North 04°49' East 222.2 feet, thence east approximately 825 feet to the outlet of the dam. Source: seepage and waste water from irrigation above the pond, and water flowing in an unnamed tributary of the COLORADO RIVER upon which the pond is located. Appropriation: June 15, 1988. Amount: 2.5 a.f., conditional. Use: recreation, wildlife propagation and conservation, piscatorial and stock watering. (4 pages)

18. Case No. 88CW404, Fraser Valley Metropolitan Recreation District, Post Office Box 3340, Winter Park, CO 80482, (3 0 3) 726-8968 (Timothy R. Buchanan, P.C., 2500 North Broadway, Suite 200, Boulder, CO 80302, 443-9898), Application to Make Absolute a Conditional Water Right, in GRAND Count[illegible]

09-17-1987: grand lake metropolitan water district description of previous water rights owned and from what locations



Page 20, Sept. 17, 1987, Sky-Hi News

Legal No. 321
NOTICE OF PUBLIC TRUSTEE SALE
No. 187-170

WHEREAS, Scott L. Mitchell, III and Douglas G. Henderson, Grantor(s), by Deed of Trust dated July 14, 1978, recorded on July 17, 1978 in Book 247 at Page 18 at Reception No. 154020 in the records of the County of Grand, Colorado, conveyed to the Public Trustee in said County of Grand, Colorado, the following described real property in said County of Grand, Colorado, to wit:

Lot 8, Block 1, TOWN OF GRAND LAKE, Grand County, Colorado

Said Deed of Trust secures a Promissory Note dated July 14, 1978, for the sum of $28,000.00, payable to the order of BANCO MORTGAGE COMPANY on the terms set forth in said Note and Deed of Trust;

WHEREAS, THE LOWRY & METCALFE COMPANY, the legal holder of the Note and Deed of Trust, has filed a written Notice of Election and Demand for Sale as provided in said Deed of Trust;

THEREFORE, notice is hereby given that I will, at 10:00 o'clock in the forenoon of October 29, 1987, at the office of the Public Trustee, Courthouse, Hot Sulphur Springs, the County of Grand, State of Colorado, sell at public auction to the highest and best bidder for cash the said real property and all interest of the said Grantor(s), their heirs and assigns therein, for the purpose of paying the indebtedness provided in said Note and Deed of Trust, attorneys' fees and the expenses of sale, and will deliver to the purchasers a Certificate of Purchase, all as provided by law.

Dated: September 2, 1987.

ELLIS TRUSTEE in and for the
County of Grand, Colorado
By: Margaret J. Ast
Public Trustee

Legal No. 321
Published in the Sky-Hi News
First publication September 10, 1987
Final publication October 8, 1987
Attorney: JAY M. FINEBILVER, P.C.
Re: 101.867

Legal No. 134
PUBLIC NOTICE

There will be workshop meeting for the Town of Grand Board of Trustees regarding the 1988 budget on Tuesday, September 15, 1987 at 7:00 P.M. and Thursday, September 24, 1987 at 7:00 P.M. at Town Hall, Zero and Jasper St., Granby, Colorado.

Copies of the proposed budget will be available at the Town Hall offices beginning Monday, September 21st between 8:00 A.M. and 5:00 P.M.

By: Sharon Kay Spurlin
Sharon Kay Spurlin, Town Clerk/Treasurer

Legal No. 134
Published in the Sky-Hi News
September 17, 1987

Legal No. 128
ALL PERSONS INTERESTED IN THE
WATER APPROPRIATION IN
WATER DIVISION NO. 5

PURSUANT TO C.R.S., 37-92-302, AS AMENDED, You are notified that the following pages comprise a resume of the applications and those applications filed with the Water Clerk for Water Division 5 during the month of August, 1987.

(4) Case No. 87CW[illegible] KENNETH C. AND KAY M. HOOSTRA, c/o James B. Lochhead, P. O. Drawer 2020, Glenwood Springs, Colorado. Application for Underground Water Rights and for Approval of Plan for Augmentation, in Grand County.

Application for Underground Water Right for Mountain Meadow Well No. 1 located in the Northeast 1/4 of the Northeast 1/4 of Section 14, Township 3 North, Range 76 West of the 6th P.M. at a point whence the Northeast corner of said Section bears North 68°18' East a distance of 1,077 feet. Source of water - groundwater tributary to the North Fork of the Colorado River. Amount claimed is 15 g.p.m., conditional, with an appropriation date of June 9, 1987, for in-house domestic use only.

Application for Underground Water Right for Mountain Meadow Well No. 2 located in the Northeast 1/4 of the Northeast 1/4 of Section 14, Township 3 North, Range 76 West of the 6th P.M. at a point whence the Northeast corner of said Section bears North 73°58' East a distance of 418 feet. Source of water - groundwater tributary to the North Fork of the Colorado River. Amount claimed is 15 g.p.m., conditional, with an appropriation date of June 9, 1987, for in-house domestic use only.

Application for Underground Water Right for Mountain Meadow Well No. 3 located in the Northeast 1/4 of the Northeast 1/4 of Section 14, Township 3 North, Range 76 West of the 6th P.M. at a point 450 feet from the North Section line and 760 feet from the East Section line of said Section. Source of water - groundwater tributary to the North Fork of the Colorado River. Amount claimed is 15 g.p.m., conditional, with an appropriation date of February 3, 1987, for in-house domestic use only.

Application for Approval of Plan for Augmentation

Water rights to be augmented: Mountain Meadow Well No. 1, Mountain Meadow Well No. 2, and Mountain Meadow Well No. 3.

Water rights to be used for augmentation: The Applicant has made application to the Middle Park Water Conservancy District for a water allotment contract from the water made available to the Middle Park Water Conservancy District under the agreement dated April 30, 1980, with the Municipal Subdistrict of the Northern Colorado Water Conservancy District, which agreement is denoted "Agreement Concerning the Windy Gap Project in the Azure Reservoir and Power Project," as confirmed in Case No. 80CW108 and the supplement thereto dated March 29, 1985.

Pursuant to said agreement, the Middle Park Water Conservancy District has available to it 5,000 acre-feet to be placed in either Granby Reservoir and/or an alternate reservoir, which water is made available for use within the Middle Park Water Conservancy District, under the decrees of said Municipal Subdistrict and numbered in Civil Action Nos. 1768 and W-4001.

Statement of plan for augmentation covering all applicable waters under C.R.S. [illegible]

A. Applicant proposes to construct a [illegible] residential subdivision located in the Northeast 1/4 of the Northeast 1/4 of Section 14, Township 3 North, Range 76 West of the 6th P.M. The property to be developed is located adjacent to the North Fork of the Colorado River, which is the upstream of a pole above where the river enters Shadow Mountain Lake. This augmentation plan will provide for in-house depletions only associated with these dwelling units. Outside irrigation will be provided by a different water right, operating under the Middle Park contract. Each single-family dwelling is assumed to have an occupancy of 3.5 persons, each using 100 gallons per day. The in-house water requirement for the three single-family dwellings is estimated to be a total of 1,050 g.p.d., or 1.18 acre-feet per year. Wastewater from the household uses will be collected and treated by the Grand Lake Water and Sanitation District, with return flows to the Colorado River at its confluence with Willow Creek. The consumptive use rate for household use is estimated to be 5 percent of diversions, which equals 0.06 acre-feet per year. Depletions and depletions are assumed to be constant throughout the year, with consumptive use occurring at a rate of about 0.00[illegible] acre-feet per month.

County. Appropriation: September 9, 1903. Amount: 0.3 c.f.s. Source: Rock Creek, tributary to the COLORADO RIVER. Use: Irrigation. Decreed point of diversion: whence the South 1/4 corner of Section 7, T. 1 N., R. 82 W., 6th P.M. bears North 75°15' West 2,645 feet. Proposed change: applicant requests a change in point of diversion as follows: Jolley Homestead Ditch No. 1 - that point within Section 18, T. 1 N., R. 82 W., 6th P.M., from which the northeast corner of said Section 18 bears North 44°30' East 1,540 feet. Jolley Homestead Ditch No. 2 - that point within Section 7, T. 1 N., R. 82 W., 6th P.M. from which the southeast corner of said Section 7 bears South 87°45' East 1,500 feet. (4 pages)

(7) 87CW189 (182CW398) ANDREW & REBECCA ARNOLD; c/o Stanley Carlyn, P.O. Box 588, Granby, CO 80446. Application for Quadrennial Finding of Reasonable Diligence - ARNOLD DIVERSION NO. 2 in GRAND COUNTY. Decreed: September 8, 1983, 83CW390. Legal description: Arnold Diversion No. 2 - is located in Lot 12, Section 1, T. 1 S., R. 76 W., 6th P.M. at a point whence the Southwest corner of said Lot 12 (West quarter corner Section 1) bears South 49°37' West 793.11 feet, Arnold Diversion No. 3 - is located in Lot 12, Section 1, T. 1 S., R. 76 W., 6th P.M. at a point whence the Southwest corner of said Lot 12 (West quarter corner of Section 1) bears South 68°51' West 459.31 feet. Source: Crooked Creek, tributary to the Fraser River, tributary to the COLORADO RIVER. Appropriation: December 15, 1962. Amount: 0.25 c.f.s. each. Use: Irrigation. The application contains a detailed outline of the work performed during the diligence period. (2 pages)

(13) 87CW193 (81CW254) JAMES T. DALY, ET AL., DBA DEVIL'S THUMB JOINT VENTURE; c/o Thomas Todd; 600 East Main St., Aspen, CO 81611. Application for Quadrennial Finding of Reasonable Diligence - DEVIL'S THUMB JOINT VENTURE WELL NO. 1 in GRAND COUNTY. Decreed: September 7, 1983, 81CW254. Legal description: SW1/4SW1/4 of Section 9, T. 1 S., R. 75 W., 6th P.M. 100 feet North of the south line and 100 feet east of the west line of said Section 9. The well is located on Lot C, Sunset Ridge Filing No. 1. Source: a well having a depth of 320 feet and being tributary to the FRASER RIVER. Appropriation: April 29, 1981. Amount: 0.030 c.f.s. Use: municipal for a 60-unit condominium, limited to domestic in-house use and fire protection. The application contains a detailed outline of the work performed during the diligence period. (5 pages)

(15) 87CW194 GRAND LAKE METROPOLITAN RECREATION DISTRICT; c/o Charles M. Woodruff, Veronica A. Spalding, Moses, Wittemyer, Harrison and Woodruff, P.C., P. O. Box 1440, Boulder, CO 80306. Application for Approval of Plan for Augmentation in GRAND COUNTY.

2. Name of structure to be augmented:
Harbison Ditch, decreed point of diversion located at a point on Tonahutu Creek in Section 32, T4N, R75W, 6th P.M., from whence the East quarter corner of Section 31, T4N, R75W, bears South 71°50' West 2,491.5 feet.
Are there other water rights diverted from this structure? Yes.

3. Previous decree for water rights to be used for augmentation:
A., B. and F. Date entered, Case, Court, Type of water right, Appropriation date: Applicant has entered into a certain Water Allotment Contract with Middle Park Water Conservancy District ("Middle Park") for an allotment of 75 acre-feet of the 3000 acre-feet of water which the Municipal Subdistrict, Northern Colorado Water Conservancy District, has agreed to provide annually to Middle Park in Granby Reservoir by virtue of the Agreement concerning the Windy Gap Project and the Azure Reservoir and Power Project, dated April 30, 1980, and approved by the District Court, Water Division No. 5, in Civil Action No. 1768, by interlocutory decree dated October 27, 1980, and Supplement to Agreement of April 30, 1980, dated March 29, 1985, and approved by the District Court, Water Division No. 5, in Case No. 85CW135, on August 26, 1985. The water rights for the Windy Gap Project were conditionally decreed on October 27, 1980 in Case Nos. 1768, W-4001 and 80CW108 by the District Court, Water Division No. 5, with appropriation dates of June 22, 1957, July 9, 1976 and April 30, 1980. Diligence decrees were entered on November 4, 1985 in Case Nos. 80CW110, 84CW113 and 84CW112 by the District Court, Water Division No. 5.
E. Legal description of point of diversion or place of storage: Granby Reservoir, located on the Colorado River, upstream of its confluence with the Fraser River, in parts of Sections 35, 26, 27, 34, 33 and 36, Township 3 North, Range 76 West; Sections 28, 30 and 32, Township 3 North, Range 75 West; Sections 1, 2, 3, 10, 11, 12, 13 and 17, Township 2 North, Range 76 West; and Sections 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 21, 22 and 23, Township 2 North, Range 75 West, 6th P.M., all in Grand County, Colorado.
Fr. Source: Colorado River.
G. Amount: 75 acre-feet.
I. Decreed use (If irrigation, include total acreage): All beneficial uses, except for instream uses and industrial uses.

4. Historic uses: (Include a description of all water rights to be used for augmentation, map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Not applicable.

5. Statement of plan for augmentation, covering all applicable matters under C.R.S. 37-92-103(9), 37-[illegible](7) and 305(8). Give full details of plan, including a description of all water rights to be established or changed by the plan: Water available to applicant in Granby Reservoir pursuant to the provisions of its November 17, 1986, Water Allotment Contract with Middle Park will be available in or for release from Granby Reservoir to the Colorado River to replace depletions resulting from out-of-priority diversions by applicant at the Harbison Ditch for irrigation of approximately 120 acres of its public golf course. The golf course is located in portions of the NW¼ of Section 32, T3N, R76W, 6th P.M., and portions of the NW¼ NW¼, SW¼NW¼ and SW¼NE¼ of Section 5, T2N, R76W, 6th P.M., Grand County, Colorado, as shown on the map attached to the application as Exhibit A. The amount of such replacement water shall be equal to the depletion resulting from such out-of-priority diversions, or the amount of water called for, whichever is less.

6. Name(s) and address(es) of owners of land on which structures are located:
A. Harbison Ditch:
National Forest Department of the Interior
National Park Service
c/o Superintendent
Rocky Mountain National Park and
Shadow Mountain National Recreation Area
Estes Park, Colorado 80517

Columbine Lake Water and Sanitation District
P. O. Box 98
Grand Lake, Colorado 80447
B. Granby Reservoir:
United States Department of the Interior
Bureau of Reclamation
P. O. Box 25007
Denver, Colorado 80225

(16) 87CW196 TOWN OF GRAND LAKE; c/o Scotty Krob; P.O. Box 709; Grand Lake, CO 80447. Application to Make Absolute a Conditional Water Right - CADDIS PIPELINE NO. 1 in GRAND COUNTY. Decreed: July 21, 1911, Case No. [illegible]. Legal description: portions of Section 32, T. 4 N., R. 75 W., 6th P.M. and of Section 5, T. 3 N., R. 75 W., 6th P.M. Source: North fork of COLORADO RIVER (natural flow) and to North Inlet to Grand Lake via/via Tonahutu Creek or Little North Inlet. Appropriation: November 26, 1907. Amount: 1.04 c.f.s., absolute. Use: Irrigation, power and domestic. The application contains a detailed outline of the work performed for completion of the appropriation and application of water to beneficial use. (2 pages)

(18) 87CW199 TOWN OF FRISCO; c/o David L. Harrison and James J. Dubnik, Moses, Wittemyer, Harrison and Woodruff, P.C., P.O. Box 1440, Boulder, CO 80306. Application for Approval of a Plan for Augmentation and Exchange in SUMMIT COUNTY.

WD #5 "16 Feb '89
945-8109 DJ
Judge
Ray Walker

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September 19, 1987
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for the following

10-26-1987: letter to the chief of the water rights branch from attorney, general litigation section regarding water diversion no. 5 - c

U.S. Department of Justice

Land and Natural Resources Division

Denver Field Office
Federal Bldg., 1961 Stout Street
Drawer 3607
Denver, Colorado 80294

Commercial Number
(303) 844-3627
FTS/564-3627

October 26, 1987

Dr. Stanley L. Ponce
Chief, Water Rights Branch
Water Resources Division
National Park Service
Federal Building, 301 S. Howes Street
Fort Collins, Colorado 80521

Re: Water Division No. 5 - Case Nos. 86 CW 325-327

Dear Stan:

Enclosed for your records please find copies of **FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE**(S) relating to Selak Ditch No. 1, Selak Ditch No. 2 and Hertel Ditch.

We will now consider these files inactive.

Sincerely,

John R. Hill, Jr.
Attorney, General Litigation Section

cc: Ralph O. Canaday, Esq.
Regional Solicitor's Office
Department of the Interior
Post Office Box 25007
Denver Federal Center
Denver, Colorado 80225

RECEIVED
OCT 26 1987
DEPT JUSTICE LANDS DIVISION

DISTRICT COURT, WATER DIVISION NO. 5, COLORADO

Case No. 86 CW 325

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA, IN THE NORTH FORK OF THE COLORADO RIVER, OR ITS TRIBUTARIES, TRIBUTARY INVOLVED: ADAMS CREEK, IN GRAND COUNTY

THIS MATTER comes before the court upon motion of the Applicant, United States of America, for summary judgment. The Applicant is represented by John R. Hill, Jr., Attorney, Department of Justice. The court, having read the briefs and examined the records and files herein, and being now fully and sufficiently advised in the premises, hereby makes the following Findings of Fact, Conclusions of Law and Decree:

FINDINGS OF FACT

1. The United States of America was joined as a party in Water Division No. 5 pursuant to the McCarran Amendment, 43 U.S.C. 666, by service of the resume upon the Attorney General.

2. The United States of America filed an application for change of water rights on December 22, 1986.

3. The Colorado Water Conservation Board (CWCB) filed a timely Statement of Opposition which was withdrawn pursuant to a Stipulation Regarding Withdrawal of Statements of Opposition filed with the court on September 3, 1987 which is attached hereto and made a part hereof as though fully set forth herein at this point.

4. The name of the structure is SELAK DITCH NO. 1.

5. The name and address of the Applicant: United States of America; c/o John R. Hill Jr., Attorney; Department of Justice, Land and Natural Resources Division; 1961 Stout Street, Drawer 3607; Denver, Colorado.

6. The source of the water is Adams Creek tributary to the North Fork of the Colorado River.

7. The historic point of diversion is located at a point on the left bank of Adams Creek whence the North 1/4 corner of section 19, Township 3 North, Range 75 West of the 6 th P.M., bears South 45 degrees 55 minutes West 2263 feet.

8. On March 18, 1915, in Civil Action No. 259, the Grand County District Court awarded to Selak Ditch No. 1, Appropriation No. 298, Priority No. 1, Adams Creek, an absolute water right for 3.0 cubic feet of water per second of time (cfs), for irrigation with a date of appropriation of June 1, 1913.

7. The Application for Change of Water Right requests that the historic consumptive use for the irrigation of approximately 93 acres of land by said 3.0 cfs be changed to an instream flow by leaving the amount of historic consumptive use in Adams Creek below the aforedescribed point of diversion for the instream beneficial uses of outdoor recreation, aesthetics, and wildlife and fish maintenance and propagation in Adams Creek and the North Fork of the Colorado River to a point where the North Fork of the Colorado River crosses the Rocky Mountain National Park boundary located in the NE 1/4, NE 1/4, SW 1/4, of Section 19, T. 4 N., R. 75 W., of the 6 th P.M. (3)

8. The United States purchased the 3.0 cfs decreed to the Selak No. 1 Ditch, along with the land that has been historically irrigated by the ditch. This 93 acres of land has been permanently removed from irrigation and the headgate to the formerly irrigated land has been obliterated thereby leaving the historic consumptive use associated with the irrigation flowing in Adams Creek.

9. The monthly amounts of the historic consumptive use for irrigation under the original decree are as follows:

MONTH	ACRE-FEET	C.F.S.
May	20.46	0.33
June	27.26	0.46
July	25.23	0.41
August	15.98	0.26
September	10.06	0.32
Total	98.99	

10. The entire reach of Adams Creek and the North Fork of the Colorado River for which this change to instream use is sought is within Rocky Mountain National Park.

11. The change of water right requested herein will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right, and the application should be approved pursuant to C.R.S. 37-92-305(3).

CONCLUSIONS OF LAW

12. All notices required by law for filing and publication of the application in the Resume of Water Division Number 5 have been fulfilled and the court has jurisdiction over the subject matter and all parties whether or not they appeared.

13. This being a change of water right and not an original appropriation, and the Colorado Water Conservation Board having withdrawn its Statement of Opposition pursuant to stipulation with the United States, there is no conflict with section 37-92-102(3) and the above entitled application should be granted.

14. The United States has demonstrated its entitlement to this decree as a matter of law and there is no genuine issue as to any material fact. Accordingly, summary judgment is appropriate.

DECREE

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the water right for 3.0 cfs historically used for irrigation of 93 acres of land decreed to SELAK DITCH NO.1 in Civil Action No. 259, by the Grand County District Court on March 18, 1915, awarded appropriation No. 298, Priority No. 1, Adams Creek, date of appropriation of June 1, 1913, be changed from irrigation to instream flow uses for outdoor recreation, aesthetics, and wildlife and fish maintenance and propagation in the reach of Adams Creek and the North Fork of the Colorado River beginning at the historic point of diversion on the left bank of Adams Creek at a point whence the North 1/4 corner of section 19, Township 3 North, Range 75 West of the 6 th P.M., bears South 45 degrees 55 minutes West 2263 feet and ending at a point where the North Fork of the Colorado River crosses the Rocky Mountain National Park boundary located in the NE 1/4, NE 1/4, SW 1/4, of Section 19, T. 4 (N.), R. 75 W., of the 6 th P.M. in the amounts and at the times as set forth below:

MONTH	ACRE-FEET	C.F.S.
May	20.46	0.33
June	27.26	0.46
July	25.23	0.41
August	15.98	0.26
September	10.06	0.32
Total	98.99	

2. The court retains jurisdiction of this application for purposes of reconsideration of the question of injury to the

vested rights of others upon application of any party to this action during the two year period commencing the first day of the month following the month in which this decree is entered.

The water clerk shall serve a copy of this Decree upon the Division Engineer, Water Division No. 5 and the State Engineer.

Dated October 22, 1987.

BY THE COURT:

Gavin D. Litwiller

GAVIN D. LITWILLER
Judge, Water Division No. 5

DISTRICT COURT, WATER DIVISION NO. 5, COLORADO

Case No. 86 CW 326

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA, IN THE NORTH FORK OF THE COLORADO RIVER, OR ITS TRIBUTARIES, TRIBUTARY INVOLVED: RANGER CREEK, IN GRAND COUNTY

THIS MATTER comes before the court upon motion of the Applicant, United States of America, for summary judgment. The Applicant is represented by John R. Hill, Jr., Attorney, Department of Justice. The court, having read the briefs and examined the records and files herein, and being now fully and sufficiently advised in the premises, hereby makes the following Findings of Fact, Conclusions of Law and Decree:

FINDINGS OF FACT

1. The United States of America was joined as a party in Water Division No. 5 pursuant to the McCarran Amendment, 43 U.S.C. 666, by service of the resume upon the Attorney General.

2. The United States of America filed an application for change of water rights on December 22, 1986.

3. The Colorado Water Conservation Board (CWCB) filed a timely Statement of Opposition which was withdrawn pursuant to a Stipulation Regarding Withdrawal of Statements of Opposition filed on September 3, 1987, which is attached hereto and made a part hereof as though fully set forth herein at this point.

4. The name of the structure is SELAK DITCH NO. 2.

5. The name and address of the Applicant: United States of America; c/o John R. Hill Jr., Attorney; Department of Justice, Land and Natural Resources Division; 1961 Stout Street, Drawer 3607; Denver, Colorado.

6. The source of the water is Ranger Creek tributary to the North Fork of the Colorado River.

7. The historic point of diversion is located at a point on the right bank of Ranger Creek whence the North 1/4 corner of section 19, Township 3 North, Range 75 West of the 6 th P.M., bears North 74 degrees 21 minutes West 1757 feet.

8. On March 18, 1915, in Civil Action No. 304, the Grand County District Court awarded to Selak Ditch No. 2, Appropriation No. 299, Priority No. 1, Ranger Creek, an absolute water right for 1.0 cubic foot of water per second of time (c.f.s.), for irrigation with a date of appropriation of June 1, 1913.

9. The United States purchased the 1.0 cfs decreed to the Selak No. 2 Ditch, along with the land that has been historically irrigated by the ditch. This 93 acres of land has been permanently removed from irrigation and the headgate to the formerly irrigated land has been obliterated thereby leaving the historic consumptive use associated with the irrigation flowing in Ranger Creek.

10. The Application for Change of Water Right requests that the historic consumptive use for the irrigation of approximately 93 acres of land by said 1.0 cfs be changed to an instream flow by leaving the amount of historic consumptive use in Ranger Creek below the aforedescribed point of diversion for the instream beneficial uses of outdoor recreation, aesthetics, and wildlife and fish maintenance and propagation in Ranger Creek and the North Fork of the Colorado River to a point where the North Fork of the Colorado River crosses the Rocky Mountain National Park boundary located in the NE 1/4, NE 1/4, SW 1/4, of Section 19, T. 4 N., R. 75 W., of the 6 th P.M.

(3)

11. The monthly amounts of the historic consumptive use for irrigation under the original decree are as follows:

MONTH	ACRE-FEET	C.F.S.
May	6.82	0.11
June	9.09	0.15
July	8.41	0.14
August	5.33	0.09
September	3.35	0.11
Total	33.00	

12. The entire reach of Ranger Creek and the North Fork of the Colorado River for which this change to instream use is sought is within Rocky Mountain National Park.

13. The change of water right requested herein will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right, and the application should be approved pursuant to C.R.S. 37-92-305(3).

CONCLUSIONS OF LAW

14. All notices required by law for filing and publication of the application in the Resume of Water Division Number 5 have been fulfilled and the court has jurisdiction over the subject matter and all parties whether or not they appeared.

14. This being a change of water right and not an original appropriation, and the Colorado Water Conservation Board having withdrawn its Statement of Opposition pursuant to stipulation with the United States, there is no conflict with section 37-92-102(3) and the above entitled application should be granted.

15. The United States has demonstrated its entitlement to this decree as a matter of law and there is no genuine issue as to any material fact. Accordingly, summary judgment is appropriate.

DECREE

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the water right for 3.0 cfs historically used for irrigation of 93 acres of land decreed to SELAK DITCH NO.2 in Civil Action No. 304, by the Grand County District Court on March 18, 1915, awarded appropriation No. 299, Priority No. 1, Ranger Creek, date of appropriation of June 1, 1913, be changed from irrigation to instream flow uses for outdoor recreation, aesthetics, and wildlife and fish maintenance and propagation in the reach of Ranger Creek and the North Fork of the Colorado River beginning at the historic point of diversion at a point on the right bank of Ranger Creek whence the North 1/4 corner of section 19, Township 3 North, Range 75 West of the 6 th P.M., bears North 74 degrees 21 minutes West 1757 feet and ending at a point where the North Fork of the Colorado River crosses the Rocky Mountain National Park boundary located in the NE 1/4, NE 1/4, SW 1/4, of Section 19, T. 4 N., R. 75 W., of the 6 th P.M. in the amounts and at the times as set forth below:

MONTH	ACRE-FEET	C.F.S.
May	6.82	0.11
June	9.09	0.15
July	8.41	0.14
August	5.33	0.09
September	3.35	0.11
Total	33.00	

2. The court retains jurisdiction of this application for purposes of reconsideration of the question of injury to

the vested rights of others upon application of any party to this action during the two year period commencing the first day of the month following the month in which this decree is entered.

3. The water clerk shall serve a copy of this Decree upon the Division Engineer, Water Division No. 5 and the State Engineer.

Dated October 22, 1987.

BY THE COURT:

Gavin D. Litwiller

GAVID D. LITWILLER
Judge, Water Division No. 5

OCT 26 1987
DEPT JUSTICE LANDS DIVISION

DISTRICT COURT, WATER DIVISION NO. 5, COLORADO

Case No. 86 CW 327

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA, IN THE NORTH FORK OF THE COLORADO RIVER, OR ITS TRIBUTARIES, TRIBUTARY INVOLVED: ONAHU CREEK (FISH CREEK), IN GRAND COUNTY

THIS MATTER comes before the court upon motion of the Applicant, United States of America, for summary judgment. The Applicant is represented by John R. Hill, Jr., Attorney, Department of Justice. The court, having read the briefs and examined the records and files herein, and being now fully and sufficiently advised in the premises, hereby makes the following Findings of Fact, Conclusions of Law and Decree:

FINDINGS OF FACT

1. The United States of America was joined as a party in Water Division No. 5 pursuant to the McCarran Amendment, 43 U.S.C. 666, by service of the resume upon the Attorney General.

2. The United States of America filed an application for change of water rights on December 22, 1986.

3. The Colorado Water Conservation Board (CWCB) filed a timely Statement of Opposition which was withdrawn pursuant to a Stipulation Regarding Withdrawal of Statements of Opposition filed with the court on September 3, 1987, which is attached hereto and made a part hereof as though fully set forth herein at this point.

4. The name of the structure is HERTEL DITCH.

5. The name and address of the Applicant: United States of America; c/o John R. Hill Jr., Attorney; Department of Justice, Land and Natural Resources Division; 1961 Stout Street, Drawer 3607; Denver, Colorado.

6. The source of the water is Onahu Creek aka Fish Creek tributary to the North Fork of the Colorado River.

7. The historic point of diversion is located at a point on the west bank of Onahu Creek whence the 1/4 corner between sections 12 and 13, Township 4 North, Range 76 West of the 6 th P.M., bears South 54 degrees 10 minutes West 2060 feet.

8. On June 16, 1941, a map and statement of claim for Hertel Ditch was filed with and accepted by the State Engineer of the State of Colorado and was assigned by him filing No. 16968. On July 17, 1941, in Civil Action No. 768, the Grand County District Court awarded to Hertel Ditch, Appropriation No. 431, Priority No. 1, Onahu Creek, an absolute water right for 5.1 cubic feet of water per second of time (cfs), for the irrigation of 202 acres of land, with a date of appropriation of September 25, 1889.

9. The United States purchased 3.5 c.f.s. of the 5.1 c.f.s. decreed to the Hertel Ditch, along with the land that has been historically irrigated by the ditch. This 202 acres of land has been permanently removed from irrigation and the ditch headgate to the formerly irrigated land has been obliterated leaving the historic consumptive use associated with the 3.5 cfs of the Hertel Ditch flowing in Onahu Creek aka Fish Creek.

10. The Application for Change of Water Right requests that the historic consumptive use for the irrigation of approximately 202 acres of land by said 3.5 cfs be changed to an instream flow by leaving the amount of historic consumptive use in Onahu Creek aka Fish Creek below the aforedescribed point of diversion for the instream beneficial uses of outdoor recreation, aesthetics, and wildlife and fish maintenance and propagation in Onahu Creek aka Fish Creek and the North Fork of the Colorado River to a point where the North Fork of the Colorado River crosses the Rocky Mountain National Park boundary located in the SW 1/4, SW 1/4, SE 1/4, of Section 25, T. 4 N., R. 76 W., of the 6 th P.M.

11. The monthly amounts of the historic consumptive use for irrigation under the original decree are as follows:

MONTH	ACRE-FEET	C.F.S.
May	48.65	0.79
June	70.20	1.18
July	57.74	0.94
August	34.68	0.56
September	23.90	0.75
Total	235.17	

12. The entire reach of Onahu Creek aka Fish Creek and the North Fork of the Colorado River for which this change to instream use is sought is within Rocky Mountain National Park.

13. The change of water right requested herein will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right,

and the application should be approved pursuant to C.R.S. 37-92-305(3).

CONCLUSIONS OF LAW

14. All notices required by law for filing and publication of the application in the Resume of Water Division Number 5 have been fulfilled and the court has jurisdiction over the subject matter and all parties whether or not they appeared.

15. This being a change of water right and not an original appropriation, and the Colorado Water Conservation Board having withdrawn its Statement of Opposition pursuant to stipulation with the United States, there is no conflict with section 37-92-102(3) and the above entitled application should be granted.

16. The United States has demonstrated its entitlement to this decree as a matter of law and there is no genuine issue as to any material fact. Accordingly, summary judgment is appropriate.

DECREE

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the 3.5 cfs of the 5.1 cfs decreed to Hertel Ditch by the Grand County District Court on July 17, 1941, in Civil Action No. 768, awarded Appropriation No. 431, Priority No. 1, Onahu Creek, with a date of appropriation of September 25, 1889, be changed from irrigation to instream flow uses for outdoor recreation, aesthetics, and wildlife and fish maintenance and propagation in the reach of Onahu Creek aka Fish Creek and the North Fork of the Colorado River beginning at the historic point of diversion on the west bank of Onahu Creek aka Fish Creek at a point whence the 1/4 corner between sections 12 and 13, Township 4 North, Range 76 West of the 6 th P.M., bears South 54 degrees 10 minutes West 2060 feet and ending at a point where the North Fork of the Colorado River crosses the Rocky Mountain National Park boundary located in the SW 1/4, SW 1/4, SE 1/4, of Section 25, T. 4 N., R. 76 W., of the 6 th P.M. in the amounts and at the times as set forth below:

MONTH	ACRE-FEET	C.F.S.
May	48.65	0.79
June	70.20	1.18
July	57.74	0.94
August	34.68	0.56
September	23.90	0.75
Total	235.17	

2. The court retains jurisdiction of this application for purposes of reconsideration of the question of injury to the vested rights of others upon application of any party to this action during the two year period commencing the first day of the month following the month in which this decree is entered.

3. The water clerk shall serve a copy of this Decree upon the Division Engineer, Water Division No. 5 and the State Engineer.

Dated October 22, 1987.

BY THE COURT:

Gavin D. Litwiller

GAVIN D. LITWILLER
Judge, Water Division No. 5

10-16-1987: meeting notes on input concepts for harbison ditch

10/16/87
Meeting.

Input concepts on Harbison Ditch

- Under this law GLNWD needs a conditional water right to complete the Windy Gap Exchange Program
- No plans to enlarge the ditch. Can we effectively stop them?
- Take out revocation clause in Special Use Permit?

- No ongoing to N.P.S. rights
- Note instream flow application
- John Hill won't File
- Letter from Custer - N.P.S. a full partner in golf course Protest would be contrary to past posting!

Facts:
NPS a willing partner in developing the golf course & Nearby water

Who owns the Ditch?

1.
2.

ACTION — More on "instream flow" application — Same approach as Owen

Meeting w/
Craig Axtel
Larry Reed
Owen Williams
Ken Czarnowski
Beth Voelkel

State Cannot Condem across N.P.S. Property
only Private Property

#1 4.6 <

#199 4.46 <

{ 2.765 year round
above that to a total 3.345 during
the irrigation season

Who owns the ditch? Columbine Lake and WPS???
built by Harbison - sold in pieces, part to U.S. part to Columbine Lake but who owns it?

ROMO would like to get rid of the ditch after all —
but Columbine Lake has 1.11 cfs through it.
Go ahead and convert our 1.5 cfs to instream

Only 2-2.5 is going through ditch - overflows at 3 cfs.

3.345 is ROMO

10-13-1987: timeline of development for the water rights of tonahutu creek

Development of the Issue 10/13/87

11/16/62 Cannot divert water from inside federal land to private land without authorization from Congress (Organizational Policies Part 5, Chapter 1, Page 29). Therefore congressional authorization is required for use of Harbison Ditch by the Grand Lake Metropolitan Recreation District. If they were to be given this right it could set a poor precedent.

11/26/62 Reasons ROMO wants to do this anyway: 1. This is the most reasonable and feasible water source for the new golf course 2. Harbison Ditch is partially owned by private parties and is used by both ROMO and private users for irrigation, it can be considered a permanent feature of the Park 3. A golf course outside the Park is desirable and ROMO has assisted Grand Lake Metropolitan Recreation District in acquiring the land for the golf course 4. Grand Lake Metropolitan Recreation District is a non-profit, state organization so "it is doubtful if an unfavorable precedent will be established."

12/13/62 Options for getting water to the golf course: 1. Allow a change in point of diversion of the Cairns #3 water right to Harbison Ditch but with priority date junior to all other rights on Tonahutu Creek if other water right holders don't object 2. Special use permit for 1.5 cfs of the United States' 3.345 cfs right during irrigation season. (Grand Lake Metropolitan Recreation District has Cairns #3 right to .625 cfs which could be pumped 250 vertical feet from Shadow Mountain Lake to the golf course.)

12/27/62 If a special use permit were issued it should be limited to 5 years to indicate the temporary nature of the permit. Grand Lake Metropolitan Recreation District should be charged for the water. Via special use permit, ROMO retains all rights and is protected because, withouth the consent of the National Park Service, no one can divert water from federal land.

1/25/63 Recommendation for U.S. to grant a special use permit under certain conditions: 1. 1.5 cfs of the federally owned right from Harbison Ditch 2. Grand Lake Metropolitan Recreation District will do all necessary maintenance without expense to the U.S. 3. May use water only from April 15 through November 1 4. Fee of $1.50 per acre

foot with gage to be installed at the expense of the Grand Lake Metropolitan Recreation District 5. Permit is revocable and not to exceed 5 years but may be renewed

1/31/63 — To protect ROMO's rights, A. van V. Dunn suggests that everything be done to prevent the Grand Lake Metropolitan Recreation District from moving its rights to Tonahutu Creek. Also, more money should be charged than $1.50 per acre foot. He asks whether the Grand Lake Metropolitan Recreation District could bet water from the Town of Grand Lake which has more water rights han it will ever be able to use. If so, the Town's rights would be strengthened which could threaten the United States' water rights.

7/01/68 — Special Use Permit, $1.50 per acre foot, good until 12/31/72 (No. 14-10-2-121-52). Renewed on the same sheet from 1/1/73 to 12/31/78 (No. 6690-3-205 mentioned in memo of 11/26/75).

11/26/75 — Expanding the golf course, they want to acquire thr water right to assure that they won't be cut off, or to lengthen terms of permit to 20 to 30 years with substantial notice prior to revocation.

12/09/75 — Request denied. U.S. very reluctant to sell water right, time limit on special use permits signed by the superintendent is five years so cannot lengthen the permit.

8/24/76 — Grand Lake Metropolitan Recreation District is still concerned about security of water supply. They desire to transfer their point of diversion for the Cairns number 3 Ditch water right (5/8 cfs) to the headgate of Harbison Ditch. They have been told by a private consulting firm that doing this is not likely to injure senior appropriators. They want to know if the NPS will object to this or if the NPS would make certain requirements prior to allowing this action.

9/10/76 — Repairs would be necessary in order for the ditch to handle the increased flow.

10/18/76 — Flows are too low to conduct testing of the ditch capacity. This will be done in the spring.

1/31/84 — Renewal of special use permit, #SP1529-84-6003, which is effective from 1/1/84 through 12/31/88. Charge has been raised to $3.00 per acre foot as determined by electricity production. A meter would be a much more accurate way to measure flow.

10/15/85 NPS rights are very senior. The water not being diverted to Harbison Ditch still needs to be "used" in the eyes of the State. Consider changing point of diversion to Tonahutu Creek rather than the ditch. Also should reactivate the Parshall Flume in Harbison Ditch to verify that enough water is being allowed to flow to downstream users.

8/08/86 Grand Lake Metropolitan Recreation District would like next special use permit to cover more than five years. It comes up for renewal at the end of 1898 but they wanted to give plenty of time to consider the option.

9/24/86 Long term special use permits have a limited term, not to exceed five years.

2/26/87 Grand Lake Metropolitan Recreation District is filing for a conditional water right to 1.5 cfs from Harbison Ditch. They filed on July 13, 1986. Park personnel are very concerned about it.

4/23/87 The NPS right is very senior. It is desirable to the Park to maintain water in the ditch. The current capacity is beleived to be about 3 cfs, the Grand Lake Metropolitan Recreation District apparently has no intention of enlarging the capacity. Their reason for wanting the conditional right is to be able to exchange the water for Windy Gap water. It is suggested that ROMO file for a change in purpose of use for the water from its two rights which is not being diverted into Harbison Ditch. It would be difficult to protest this because it is difficult to prove injury in such a case (they've been using the water for nearly 25 years with NPS blessing and their right would be far junior to the NPS rights). Protesting the application would probably be futile but the NPS should make it clear to the Grand Lake Metropolitan Recreation District that enlarging the ditch would require Park approval.

8/25/87 Proceed with change of use for the Tonahutu Creek rights.

9/27/87 Larry Reed from ROMO is very concerned about August resume. There is the filing from the Grand Lake Metropolitan Recreation District. He wanted to know if a protest had been filed last year when they filed for a conditional right.

Harbison Ditch Constructed Nov 1, 1894
446 cfs

Decree 7/21/1911 — Priority #1 claimed by Roy Adams for fish culture in an artificial lake

Gets entire flow of ditch Nov 1 – April 15th

4.6

Decree Aug 3, 1911 — Priority #199 Roy Adams & Kate Harbison

From as Ditch No. 2

4.46 cfs. Irrigate 330 acres.

Sale of Kate Harbison Estate

7/31/39 — 1.115 cfs (#199) year round from Kate Harbison + Adams

plus Nov 1 – April 15th up to 1.115 of #1 is not used for irrigation under #199

ID#	Name	Source	Amt	App Date	Priority No	
570	Cairns No. 3 ditch	N. Inlet	0.625	9/1/1885	38	out of pk
574	Cairns Pipeline	"	36.0	5/14/1904		out of Park
574	Cairns Pipeline	"	36.0	5/14/1904		out of park
3648	Cairns Reservoir		1122.8A	5/14/1904		out of Park
3648	Cairns Reservoir	"	112.8A	5/14/1904		out of Park
3650	Cairns #3 Reservoir	"	330.7A	12/14/1904		West into Park East
3650	Cairns #3 Reservoir	"	330.7A	12/14/1904		West into park east
970	Cairns pipeline No. 1	N. Inlet	4.406	11/26/1907		
970	Cairns pipeline No 1	"	1.06	11/26/1907		out of Park
970	Cairns pipeline No 1	"	1.406	11/26/1907		
575	Cairns pipeline No. 2	"	5.016	11/27/1907		out of
575	Cairns pipeline No 2	"	5.016	11/27/1907		Park
			0.25			
801	Mitchell Ditch	"	~~1.00~~ 0.25	7/29/1893		
801	Mitchell Ditch	"	~~1.00~~ 1.00	7/29/1893		out of Park
801	Mitchel Ditch	"	1.00	7/29/1893		
1185	Ermales Ditch	"	.033	4/01/1963		– out of Park

						Permits
704	Harbison Ditch	Tonahutu Cr	4.46 cfs	7/15/1893	OK	#99
3649	Coun #2 Res	"	139.6 A	12/08/1944	None	
3649	"	"	139.6 A	"	None	
704	Harbison Ditch	"	4.46 cfs	7/15/1893	OK	#99
704	"	"	1.115 cfs	7/15/1893	OK	
533	Bob Harbison D.	"	1.25	6/15/1922	abandoned outside of Park	428
533	"	"	0.625	"		428
533	"	"	1.25	"		428
533	"	"	.625	"		428
679	Grand Lake Pipeline	"	6.0 cfs	3/15/1945		501
679	"	"	6.0	3/15/1945		501
679	"	"	6.0	3/15/1945		
5257	Grand Lake Well	"	6.00	3/15/1945	out of Park	
5257	"	"	.55	3/15/1979		
5257	"	"	.55	3/15/1979		

1

Kelley Right Water Decree July 21, 1911

Claimed by Roy Adams to artificial lake for trout culture

Entire flow = 4.6 cfs Nov 1 — April 15

? → April 15 - Nov 1 the rest of the time.

Kelly, Successor in title to Roy Adams.

7/31/39 up to Kelly to USA Deed #50

1.115 Nov 1 → April 15th

April 15 → Nov 1 (to so much as 1.115 cfs as shall "not" be used by the owners of the irrigation rights of Harbison Ditch, Priority #1)

5/21/40 Quit claim Adam to Kelley #1

6/10/40 Grand County #1452 decree

Kelley quote title & claim of Adams.
"has used ditch & water rights for the past 28 yrs"

decrees 4.6 cfs to Kelley

Note memo of 6/10/40 Regional Attorney to Director -
1.65 cfs of priority #1 will supplement the conveyance of irrigation priority #199.

4/17/89

According to the records division in Sec 22, the Community of Grand Lake has a municipal right of 6 cfs (priority date 1945) via the Grand Lake pipeline. (part transferred to a well)

- Larry Reed, based on conversations with the City of Grand Lake stated that the city diverts 2.75 cfs (priority date ? 1911) absolute decree ??

#1

10/18/62 GLMWD bought Cairns Ditch #3
WR #1 .625

priority 1885 for irrig.

want to change point of diversion

8/3/1911

Harbison Rights No #199 Water Decree dated Aug 3, 1911

Irrigation purposes - 330 acres

Claimants - Roy Adams & Kate Harbison

4.46 cfs - no dates of use given.

7/10/39 Sale of Kate Harbison Estate #199

$5,172.70

Robert Harbison & Roy Adams Schools

1.65 cfs use during entire year irrigate ≈ 102 acres

land { E½ SW¼ 530, N½ NE¼ NW¼ and S½ SE¼ NW¼ 531 T 4N, R 75 W 6PM (See map in books for location)

the above lands total 123.97 acres

7/31/39 Kelly to U.S. (Deed # 50)

1.115 cfs (#199) "for use during entire year"

also, plus up to

4/22/1940 Kelly to U.S. Quit claim deed

1.65 cfs } #199 use during entire year
part of ½ interest of (4.46 cfs)

Kelly retains ~~1.65~~ 2.23 cfs

Harbison estate retains ~~1.65 cfs~~ .58 cfs

#199

(2)

Thru the Quit Claim deed; Kelly says he has no claim to the 1.65 cfs sold by the Harbison estate

Memo to Lester - 5/18/1940

Kelley conveys 1.65

11/7/52 Gudgel to U.S. (Deed 124) .58 cfs #199

In SE 1/4 S25, T4N, R7E W 6th P.M. All of Block 5 of State Columbine Subdivision #2 lying East of the West Bank of the G.G.R.

In S. 31, T4N, R75W all of S 1/2 of N 1/2 of NW 1/4, the SW 1/4 NW 1/4 and N 1/2 SW 1/4 NW 1/4 except the U.S. Hwy 34.

2/15/60 letter

U.S. owns

OK

McKee OK

#199
Apr 15 - Nov. 1,
~~2.765~~
3.345

#1
Nov 1 - Apr 15
~~3.345~~
2.765

as per docket list.

Columbine - Lake

#199
1.115 cfs

1.695

~~3.08~~
4.46

~~5.07~~
4.46

GLMWD

1.5 cfs w/ conditional Priority

also move ~~0.625~~ 0.625 cfs from Cairo to Harbison

9 Original Water Decrees - Harbison Ditch Docket #23

7/21/1911 — Roy Adams 4.6 / #1
fish culture in artificial lake

8/3/1911 Adams + K.H. #199
4.46 cfs / 330 acres

7/10/39 — Sale of K.H. estate
Administrator's Deed #348
Park Deed #49
1.65 cfs / #199 / "entire qr" to U.S
≈ 102.33 acres

7/31/39 Deed #50 Kelley to U.S
1.115 cfs / #199 (ir) "for use during entire year"

plus up to 1.115 cfs / #1
as not used for ir under #199
(Deed #50)

4/22/1940 - Quitclaim Kelley to U.S
1.65 cfs / #199
quiets Kelley title to K.H. water

Kelley retained 2.23 cfs
K.H estate .58 cfs

Kelley agrees he has no title to 2.23 cfs claimed by Adams, only 4.46 of #1 Adams had

5/21/1940 Quitclaim Adams to Kelley
all of #1 / right to ditch

6/10/1940 - Grand County Decree #1452
Kelly quiets title + claims of
Adams
Kelley granted 4.6 cfs / #1 /
fish culture

6/10/1940 Quitclaim Kelley to U.S.
1.65 cfs / #1 #53643

as explained in ~~letter~~ memo to Regional Director
5/17/40 this water was ~~part~~
~~of the~~ apparently going to
satisfy the 1.65 cfs sold
by K.H. estate to U.S. (7/10/39)?

used to "supplement" the 1.65 under #199

11/7/52 - Gudgel to U.S (Deed 124) .58 cfs #199

2/15/60 - letter
U.S. rights 3.345 cfs 4/15 - 11/1 2.765
11/1 - 4/15 1.115
1.65

#199 → 1.115, 1.65 → Kelley #50

1.65 Harbison #49
.58 Gudgel
1.115 Kelley #5
→ #199

10/18/62 - letter to Supt. - GLMRD bought Carrie Dieth + W Right #1, App # 38 - .625cfs from North Inlet (#3)

wants to change pt. of diversion to Harbison

priority 1885 for irr.

"the ditch is not being used @ the present time"

reply 11/1/62 from Supt.

ditch not entirely owned by ROMO

other owner - "the proprietor of Columbine Lake"

both owner + NPS using for domestic irr + fish culture

"sure it could easily handle the additional ~~.62~~ 5/8 cu ft."

1/24/63 - Howard Brecken letter -

allows MLD use of his part in ditch

5/24/63 - letter to Div. NPS - "Fed Water right in H. Ditch is now 1.65 cfs.

2/15/60 - need for measuring device @ diversion

est. value of water @ $75,000

DataCom / Made in U.S.A.

8/12/75 - Decree Case # W-2502

grants Columbia Lake W+S Dist.

1.225cfs of 4.6 fish right #1
[leaves 3.345cfs] (tabulation # 1583)

and

1.115cfs of 4.46 irr right #199
[leaves 3.345cfs]
(tabulation # 1835)

Only record state has of ownership of ditch or water rights is NPS.

DataCom / Made in U.S.A.

Prentice

#1 Harbison

#2 Harbison

Bob Harbison ditch (abandoned)

#3 Grand Lake Pipeline (Still diverting 2 cfs)

Cairns pipeline ~~& reservoir #3, #6~~
(part of #1 abandoned)

Mitchell ditch - ~~Bill~~ Rocky Mt Motor - 1.25 cfs

- Ermilee 1977 ditch

[Ish pipeline]

627-3471

According to A van V. Dunn June 19, 1937

37 cfs = "normal flow of the stream"

Normal flow of about 20 cfs

late summer flow is about 7 cfs

Call from Tabe Town takes water out of Tonahutu Creek ~

Lenny Reed The Creek has never been dry - last 7yrs

as per Lenny Reed -

No use by N.P.S.

Town people 2.75 cfs.

absolute decree 1911

pipeline - treatment plant -

tube underground . . .

Adj Date | Prev Adj date)

App date

9/11/1968

6 cfs Transferred to Grand Lake Well

79 CW-287

1945

Adj. Date Nov 7, 1952

Betty

Carries Res #2
Harbison Ditch

→ Grand Lake pipeline - 1945
6. cf.s

Municipal purposes -

Division Office

Jim Dorston ...

Civil

Millie Walker

00-00-0000: note regarding harbrain ditch

Harbrain Ditch

Owner	Priority Date	Place of Use	Type of Use	Purpose
Troy Ray Walker	945-8109 - 5665	Glenwood Spgs		
~~Alan~~ Stewart		Columbine Lake G.L.M.R.D.		

Tomahuta Creek aka "Little North Inlet"

Water Resources 945-5665

Alan

Harbrain Ditch

Note: Colo Law Article 86

37-86-102

* Owner gets or entitled to a right-of-way

* Enlargment?

construct the proposed Colorow Well No. 23 within the period of time specified in the well permit or any extension thereof should not be deemed to constitute lack of diligence per se in future determinations of reasonable diligence and/or completion appropriation by application of the water to beneficial use, and that the court order that the State Engineer shall grant the initial permit for the well within 60 days after the filing of the well permit application by the Applicant and that the Applicant or its successor shall have the right to reapply to the State Engineer for new permits for any expired permits, which new permits State Engineer shall grant and issue within 60 days after such reapplication is made, so long as this decree remains in effect. Plan of Augmentation: Application is hereby made for approval of a plan for augmentation for Lot 3, Colorow at Squaw Creek Subdivision. An application for an augmentation plan for Lots 1, 2 and 4 through 13, inclusive, of the Colorow at Squaw Creek Subdivision was published in the resumé for July, 1986 in Case No. 86-CW-182. A decree was entered in that case on May 29, 1987. At the time of the filing of the application in Case No. 86-CW-182, the then owner of Lot 3 requested that Lot 3 be omitted from the application. The current owner of Lot 3 wishes his lot to be subject to the same method of operation as the prior decreed augmentation plan. Accordingly, this application incorporates by this reference the terms and conditions set forth in the application filed in Case No. 86-CW-182 and published in the resumé for July, 1986. Based on the application and decree in Case No. 86-CW-182, the Applicant states that no more than 2,000 square feet shall be irrigated on each half of Lot 3 once it is subdivided, for a total of 4,000 square feet of irrigated lands. Total in-house use is estimated based on 3.5 people for each of two residences with 100% occupancy and 75 gallons per person per day. Accordingly, total raw water demand is estimated at 0.32 acre-feet per year for irrigation and at 0.59 acre-feet for in-house use, for a total of 0.91 acre-feet per year. Consumptive use is estimated at 10% for the in-house raw water demand and at 75% for irrigation, for a total of 0.30 acre-feet of consumptive use annually for the two residences. Out of priority consumptive use from the two wells to be decreed in this application shall be made up according to the terms and conditions of the decree entered into in Case No. 86-CW-182 through the sources described therein, i.e., the planned Colorow Reservoir located in the Colorow at Squaw Creek Subdivision and with water released from Green Mountain Reservoir. The Applicant currently has an annual contract for water from Green Mountain Reservoir from the U.S. Bureau of Reclamation and has requested a long term contract with the Colorado River Water Conservation District. The annual contract will be utilized, as set forth in the decree in Case No. 86-CW-182, until issuance of long term contracts for water is approved by the Bureau of Reclamation for issuance by the Colorado River Water Conservation District.

15. 87CW 195 **GRAND LAKE METROPOLITAN RECREATION DISTRICT**; c/o Charles N. Woodruff, Veronica A. Sperling, Moses, Wittemyer, Harrison and Woodruff, P.C., P. O. Box 1440, Boulder, CO 80306. Application for Approval of Plan for Augmentation in GRAND COUNTY.

2. Name of structure to be augmented:
Harbison Ditch, decreed point of diversion located at a point on Tonahutu Creek in Section 32, T4N, R75W, 6th P.M., from whence the East quarter corner of Section 31, T4N, R75W, bears South 31°50' West 2,491.5 feet.
Are there other water rights diverted from this structure?
Yes.

3. Previous decree for water rights to be used for augmentation:
A.- D. and H. Date entered, Case No., Court, Type of water right, Appropriation date: Applicant has entered into an executed Water Allotment Contract with Middle Park Water Conservancy District ("Middle Park") for an entitlement of 75 acre-feet of the 3000 acre-feet of water which the Municipal Subdistrict, Northern Colorado Water Conservancy District, has agreed to provide annually to Middle Park in Granby Reservoir by virtue of the Agreement concerning the Windy Gap Project and the Azure Reservoir and Power Project, dated April 30, 1980, and approved by the District Court, Water Division No. 5, in Civil Action No. 1768, by interlocutory decree dated October 27, 1980, and Supplement to Agreement of April 30, 1980, dated March 29, 1985, and approved by the District Court, Water Division No. 5, in Case No. 85CW135, on

August 26, 1985. The water rights for the Windy Gap Project were conditionally decreed on October 27, 1980 in Case Nos. 1768, W-4001 and 80CW108 by the District Court, Water Division No. 5, with appropriation dates of June 22, 1967, July 9, 1976 and April 30, 1980. Diligence decrees were entered on November 4, 1985 in Case Nos. 84CW110, 84CW111 and 84CW112 by the District Court, Water Division No. 5.

E. Legal description of point of diversion or place of storage: Granby Reservoir, located on the Colorado River, upstream of its confluence with the Fraser River, in parts of Sections 25, 26, 27, 34, 35 and 36, Township 3 North, Range 76 West; Sections 29, 30 and 32, Township 3 North, Range 75 West; Sections 1, 2, 3, 10, 11, 12, 13 and 15, Township 2 North, Range 76 West; and Sections 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 21, 22 and 23, Township 2 North, Range 75 West, 6th P.M., all in Grand County, Colorado.

F. Source: Colorado River.

G. Amount: 75 acre-feet.

I. Decreed use (if irrigation, include total acreage): All beneficial uses, except for instream uses and industrial uses.

4. Historic use: (Include a description of all water rights to be used for augmentation, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.) Not applicable.

5. Statement of plan for augmentation, covering all applicable matters under C.R.S. 37-92-103(9), 302(1)(2) and 305(8). Give full details of plan, including a description of all water rights to be established or changed by the plan.
Water available to applicant in Granby Reservoir pursuant to the provisions of its November 17, 1986, Water Allotment Contract with Middle Park will be available in or for release from Granby Reservoir to the Colorado River to replace depletions resulting from out-of-priority diversions by applicant at the Harbison Ditch for irrigation of approximately 120 acres of its public golf course. The golf course is located in portions of the NE¼NE¼ of Section 2, T3N, R76W, 6th P.M., and portions of the NW¼ NW¼, S½NW¼ and NW¼SW¼ of Section 1, T3N, R76W, 6th P.M., Grand County, Colorado, as shown on the map attached to the application as Exhibit A. The amount of such replacement water shall be equal to the depletion resulting from such out-of-priority diversions, or the amount of water called for, whichever is less.

6. Name(s) and address(es) of owners of land on which structures are located:

A. Harbison Ditch:
United States Department of the Interior
National Park Service
c/o Superintendent
Rocky Mountain National Park and
Shadow Mountain National Recreation Area
Estes Park, Colorado 80517

Columbine Lake Water and Sanitation District
P. O. Box 555
Grand Lake, Colorado 80447

B. Granby Reservoir:
United States Department of the Interior
Bureau of Reclamation
P. O. Box 25007
Denver, Colorado 80225

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16. 87CW196 TOWN OF GRAND LAKE; c/o Scotty Krob; P.O. Box 709; Grand Lake, CO 80447. Application to Make Absolute a Conditional Water Right - CAIRNS PIPELINE NO. 1 in GRAND COUNTY. Decreed: July 21, 1911, Case No. is unknown. Legal description: portions of Section 32, T. 4 N., R. 75 W., 6th P.M. and of Section 5, T. 3 N., R. 75 W., 6th P.M. Source: North Fork of COLORADO RIVER (point of diversion is on North Inlet to Grand Lake a/k/a Tonahutu Creek or Little North Inlet. Appropriation: November 26, 1907. Amount: 1.94 c.f.s., absolute. Use: irrigation, power and domestic. The application contains a detailed outline of the work performed for completion of the appropriation and application of water to beneficial use. (2 pages)



Key call from Larry Reed (ROMO – west side)

29 Sep 87 8:00

Reed had a conversation w/ Jim Dayton (water Commissioner for the area covering west side ROMO). Duston expressed concern that the application for a water right in Tonahutu Creek by Grand Lake Metro Recreation District (for Golf Course irrigation) would go into effect by end of October if we didn't "do something about it" (ie protest, etc.)

I told Reed we had discussed the issue but was unsure whether or not a protest had been filed (I thought one had). I said I'd check.

He indicated — Brown (acting supers) was desirous of taking some action.

Reed Meets w/ Duston on Thurs 1 Nov and would like info by then.



Call to
Larry Reed
1 Oct 87

I called Reed to Update him as I promised. I reiterated the basics from issue file, specifically letters to & from Park re: change of irrig rights to instream. Reed asked if we'd seen Aug resume & the districts application. I said I had not but someone else might have. He offered to send a copy I accepted.

He read the appl. which was in line with what they'd intended from early on.

Larry next indicated he was preparing a request for a protest to be sent to us. I explained that we'd have a tough time coming up w/ grounds since we'd provided them the water for so long. I told him I doubted DOI would be willing to file it.

He then asked about their rights with regard to the ditch itself. To this I responded with



a brief summary of court decisions regarding Denver's water rights on USFS land (Blue River Decree) with a suitable caveat ("I'm not an attorney").

Reed indicated he understood but would probably send the letter anyway "just for the record". I said that was fine, we served the park's needs and would respond to their requests.

If protest is to be made it apparently needs to be done before 1 Nov. Therefore, John Hill should be contacted as soon as Park notifies us

09-11-1987: memorandum to regional director from acting chief regarding transmittal of trip report for travel to rocky mountain nat

September 11, 1987

L54 (479)
RMR/ROMO Water Rights

Memorandum

To: Regional Director, Rocky Mountain Region

From: Acting Chief
Water Resources Division

Subject: Transmittal of Trip Report for Travel
to Rocky Mountain NP, September 1, 1987

Attached is a trip report concerning Ken Czarnowski's travel to Rocky Mountain National Park on September 1, 1987. During his visit, Ken assisted Unit Manager Larry Reed and Resource Management Specialist Craig Antell in examining alternatives for converting an irrigation water right associated with Harbison Ditch to an instream flow water right.

If you have any questions, please call Ken at (303) 221-5341.

William Werrell

Attachment

cc: Superintendent ROMO
Hermance, RMRO
Antell, ROMO

FWP:Czarnowski:skp:9-4-87:221-5341:20904CZAR.1t3

09-04-1987: memorandum to acting chief from hydrologist regarding trip report

September 4, 1987

L54 (479)
RMR/ROMO Water Rights

Memorandum

To: Acting Chief, Water Resources Division

Through: Chief, Water Rights Branch
Water Resources Division

From: Hydrologist, Water Rights Branch
Water Resources Division

Subject: Trip Report - Rocky Mountain NP, September 1, 1987

Purpose: The purpose of this trip was to discuss the conversion of irrigation water rights associated with Tonahutu Creek to instream use.

Itinerary:

Tuesday, September 1, 1987 Depart Fort Collins at 7:30 a.m.
Arrive ROMO at 9:00 a.m.

Field inspection of Lawn Lake Dam area, Harbison Ditch

Return to Fort Collins at 6:00 p.m.

Personnel Contacts:

Craig Axtell, Resource Management Specialist, ROMO
Larry Reed, Westside Unit Manager, ROMO,
Jim Thompson, Superintendent, ROMO

Discussion:

The National Park Service has purchased a total of 3.345 cfs of water (portions of decreed water rights, Water District No. 51, Priorities Number 1 and 199) in Harbison Ditch. Of this 3.345 cfs, ROMO has allowed the Grand Lake Metropolitan Recreation District to use 1.50 cfs of water from the ditch to irrigate the Grand Lake golf course. The Recreation District has used 1.5 cfs from Harbison Ditch since 1963 by means of a series of five-year special-use permits. Recently, the Recreation District has requested that the Park Service extend the special use permit beyond five years. Their request was denied and on July 13, 1986 the Recreation District then filed for conditional water rights for 1.5 cfs.

A brief discussion was held with Superintendent Thompson and he advised that all options should be evaluated very carefully in dealing with the Harbison Ditch issue. He also indicated that Dave Stevens would now be responsible for water right issues in ROMO.

Action:

As requested in the Superintendent's memo of August 25, 1987, I will pursue the conversion of two water rights on Tonahute Creek to instream flow uses. Also, in consultation with the Solicitor's office, Larry Reed, and Dave Stevens, I will develop options for the Superintendent to consider in addressing the actions taken by the Grand Lake Metropolitan Recreation District in filing for 1.5 cfs from Harbison Ditch.

Kenneth J. Czarnowski

FNP:Czarnowski:skp:9-4-87:221-5341:20904czm.Lt4

United States Department of the Interior
NATIONAL PARK SERVICE
Rocky Mountain National Park
Estes Park, Colorado 80517

IN REPLY REFER TO:

L54

August 25, 1987

ACTION

Memorandum

To: Acting Chief, Water Resources Division, Fort Collins, Colorado

From: Superintendent, Rocky Mountain National Park

Subject: Conditional Water Rights, Grand Lake Metropolitan Recreation District, Tonahutu Creek, Harbison Ditch

We appreciate your investigation into Grand Lake Metropolitan Recreation District's application for 1.5 cfs of water from Tonahutu Creek.

In reviewing the suggestions offered in your memorandum of April 23, 1987 to our West Unit Manager, we would like your office to pursue the conversion of two water rights (#1 and #199) on Tonahutu Creek to instream use. Additionally, other park water rights in Division 5 acquired with the purchase of inholdings, or otherwise purchased, should also be converted to instream use when possible.

James B. Thompson

cc:
Homer Rouse, Associate Regional Director, Park Operations, RMR
Ron Hermance, Water Resources, RMR

Note: Dave Stamm to handle water rights in RMNP. as per Sept 9/1/87

April 23, 1987

L54 (479)
RMR Water Rights

Memorandum

To: Larry Reed, Westside Unit Manager
KONO

From: Acting Chief, Water Resources Division

Subject: Conditional Water Rights, GrandLake Metropolitan Recreation District, Tonahutu Creek, Harbison Ditch

This memorandum is in response to your initial call on February 23, 1987, concerning an application for a conditional water right on Tonahutu Creek filed by the Grand Lake Metropolitan Recreation District. Following is a summary of our research on the matter.

Issue

On December 30, 1986, the Grand Lake Metropolitan Recreation District applied to the Colorado Water Court, Division 5 for a conditional water right of 1.5 cfs. The application states that the Recreation District intends to divert the water from Tonahutu Creek and carry it in Harbison Ditch. The application is of concern because the diversion point and part of the ditch are within the Park, and because the United States has two adjudicated rights on Tonahutu Creek historically used through Harbison ditch.

Background

The earliest adjudication of Tonahutu Creek in 1911 listed two water rights attached to Harbison Ditch. The original water right (#1), perfected by Roy Adams, was for the use of 4.6 cfs for the propagation of fish with a priority date of 1894. The full allotment of this right can be used from November 1 to April 15. But, during the irrigation season (April 15 to November 1) owners of water right #1 can use only the unused portion of the second right (#199) up to 4.6 cfs. Water right #199 is an irrigation right for the use of 4.46 cfs during the irrigation season, with a priority date of 1898. The 1911 court ruled that water right #199 was shared equally by Mr. Adams and Kate Harbison.

To complicate matters, the United States has purchased only a portion of each water right (Deeds #49, #50, #124). Our calculations show that the Park

0.58 additional during irrigation

retains rights to 3.345 cfs of water right #199 for irrigation (April 15 to November 1), ~~and~~ but only to 2.765 cfs of water right #1 for year round use. The remaining portion of water right #199 (1.115 cfs) is owned by the Columbine Lake Water and Sanitation District and transported in Harbison Ditch.

In Civil Action 2502, 1975, the Water Court granted the Sanitation District a change in use for water right #199 from irrigation to the "maintenance of stream flow" (tabulation #1635). The decision also affirmed the Sanitation District's claim to 1.225 cfs of water right #1 (tabulation #1583). Ownership of the remaining .58 cfs of water right #1 is unclear.

In 1963 the Park began leasing 1.5 cfs of water right #199 to the Grand Lake Metropolitan Recreation District under the first of a series of five-year special use permits. Since that time the Recreation District has unsuccessfully sought to extend the term of the permit beyond the five-year limit prescribed by National Park Service policy. After failing in October of 1986 to get an extension of the five-year limit, it applied for a conditional water right. The Water court has not ruled on the application.

Findings

1. The Park wants to maintain water flows in the ditch and has no plans to cancel the special use permit.

2. Because the Park's water right has a high priority, the Recreation District may choose to maintain its special use permit, even if it is granted a conditional water right. The current permit expires in December of 1988.

3. The current capacity of Harbison ditch is estimated to be approximately 3 cfs. This allows the ditch to carry the 1.5 cfs leased by the Recreation District, and the 1.115 cfs owned by the Sanitation District.

4. The Recreation District claims it has no plans to enlarge the ditch. Because the ditch is in the Park, federal approval of any work on the ditch should be required. The Sanitation District also has a proprietary interest in the ditch.

5. Under Colorado Law, the Recreation District needs a conditional water right to apply for a right to exchange water. It plans to use water from the Windy Gap Project to satisfy senior appropriators on the Colorado River system. This arrangement will provide the Recreation District additional security in times of low flow, and also allow it to increase its consumptive use of the leased water.

Options

1. File a motion to intervene with the Water Court and oppose the conditional water right on the basis that:

   a. there is no water in Tonahutu Creek for the Recreation District to appropriate; and

   b. without a proprietary interest in the ditch, the Recreation District has no right to claim the ditch at its point of diversion.

2. Ignore the conditional rights filing. Even if the conditional right becomes an absolute right, it will have a very low priority.

Suggestions

1. The Park should consider filing for a change of use for its two water rights on Tonahutu Creek that it is not diverting into Harbison Ditch. A change to an instream use will protect these water rights. The Water Rights Branch can address this mater if the Park so chooses.

2. Because the Recreation District currently uses 1.5 cfs through Harbison Ditch, it could be hard for the Park to prove that the conditional right would injure its own water rights, or that the water will never be diverted and beneficially used.

3. If the Park chooses not to oppose the Grand Lake Metropolitan Recreation District's application for a conditional right, it might advise the Recreation District of its decision, and notify it that enlargement of the ditch or other ditch-related activity will require Park approval.

We hope this memorandum clarifies the situation concerning Harbison Ditch. If you have any further questions, please contact Walter Rusinek at 221-5341.

Stanley L. Ponce

Stanley L. Ponce

cc: Jim Thompson, Superintendent ROMO
Homer Rouse, Associate Regional Director for Park Operations
Ron Hermance, RMR Water Resources Contact

FNPWRusinek:cs:221-5341:2/21/87:20421rus.mmi

RECORD ID: *** PAGE 1

WATER RIGHTS BRANCH INFORMATION TRACKING SYSTEM

ISSUES AND CONCERNS

04/01/87

REGION: RMR UNIT:ROMO DATE RECEIVED 02/12/87 MODE: phone

CONTACTS

NAME Larry Reed TITLE ROMO West Unit Mgr. PHONE ( )627-3471

NAME TITLE PHONE

NAME TITLE PHONE

LAST UPDATE: 04/01/87

ISSUE/CONCERN:

The Grand Lake Metropolitan Recreation District (Recreation District) has applied to Colorado Division 5 Water Court for a conditional water right for 1.5 cfs from Tonahutu Creek which flows through ROMO. The Recreation District currently diverts this amount of water from the creek through Harbison Ditch under a five-year special use permit. This water is owned by the Park and leased to the Recreation District. Although the Park does not intend to retract the agreement, the Recreation District has unsuccessfully sought a longer term pact.

ACTION PLAN:

To assess the situation, the WRB will:

1. Review dockets for information on ROMO water rights.
2. Discuss situation with ROMO West Unit Manager.
3. Contact Colorado Water Court Division 51 Commissioner, and District 5 Water Court.
4. Review special use permit.
5. Recommend response to ROMO on possible opposition to the application.

ACTION SCHEDULE:

Action	Due Date	COMPLETION Date	Responsible Person(s)

887-3126

COMMENTS:

2/23/87 Larry Reed notified Scott Brown of the Recreation District's filing. He had been notified by Jim Daxton, District 51 Water Commissioner (~~726-5253~~ in Granby). Reed noted that the Recreation District currently diverts 1.5 cfs through Harbison Ditch under a special use permit. (Used April 1 to November 1.) The term of this permit is five years, and the Recreation District has attempted to lengthen it, which is not allowed under

NPS policy. The Ditch also carries 1.115 cfs owned and used by the Columbine Lak later and Sanitation Distr t. This total, 2.615 cfs is the upper limit of the ditch capacity. However, ROMO has a right to 3.345 cfs on Tonahutu Creek. It currently allows the portion not leased to flow in stream.

2/27/87 Larry Reed sent the WRB information not contained in our docket (#23) including a copy of the special use permit.

3/5/87 Walter Rusinek spoke with Jim Daxton who referred me to the District 5 Water Court.

3/9/87 The Water Court sent copies of applications pertaining to the ditch filed by the Recreation District, and by the Columbine Lake Water and Sanitation District. Received copies on 3/16/87.

3/20/87 Walter Rusinek spoke with Hal Bishop (Denver, 455-2760) an engineer for both Districts. He explained that both applications were made to allow the Districts to exchange water rights they own in the Windy Gap project with their rights on Tonahutu Creek. This will allow them to use the creek water more consumptively, and supply senior downstream users with Windy Gap water. He said that neither group intends to expand the ditch capacity, which he estimated to be around 4 cfs. He also claimed that the CLWSD owns two rights appurtenant to the ditch: a 4.6 cfs right (#1) for fish propagation, and 1.115 cfs (#199) for irrigation. He said the U.S. owns the remainder of #199 (3.345 cfs). The attached sheet deals with our research on the water rights issue.

3/24/87 Water Court sent a copy of Civil Action #2502 (W2502, August 12, 1976) concerning the water rights of CLWSD.

3/25/87 Request to Lee Garrison (Lands Division) for copies of all pertinent deeds. Received copies 3/31/87.

SUMMARY:

After internal discussions (Scott Brown, Walter Rusinek, Owen Williams), we have concluded that the Recreation District's action should not threaten ROMO. Moreover, we feel that it will be hard to persuade the Water Court to not grant the conditional right. Moreover, while the Park desires to have water run through the ditch for its aesthetic appeal, the Recreation District's action actually protects the Park's wishes. Only an at tempt by the Recreation District to enlarge the ditch, something they say they are not interested in doing, would possibly be detrimental. Thus, we recommend that the United States not oppose the application.

The Park, however, should file a change of use application for the water it does not divert from Tonahutu Creek. Such an action would protect that part of the Park's right, and help resolve the issue of water rights in the ditch. Attached is a sheet outlining the conclusions of the WRB concerning those water rights.

03-19-1987: memorandum to chief from acting associate regional director regarding harbison ditch water rights

United States Department of the Interior
NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
655 Parfet Street
P. O. Box 25287
Denver, Colorado 80225

IN REPLY REFER TO:
L54 (RMR-MR)

MAR 19 1987

Memorandum

To: Chief, Water Resources Division, Fort Collins, Colorado

From: Acting Associate Regional Director, Park Operations, Rocky Mountain Region

Subject: Harbison Ditch Water Rights

Enclosed is a copy of recent correspondence from the Superintendent of Rocky Mountain National Park requesting assistance with the subject water rights issue. Apparently, the Grand Lake Metropolitan Recreation District is attempting to obtain an additional 1.5 CFS of water from the Harbison Ditch which may affect rights owned by Rocky Mountain National Park. We would appreciate having your staff investigate this matter to determine impact on our water rights.

Please contact Ron Hermance at (303) 236-8645 if you have any questions on this subject.

John E. Chapman

Enclosure

cc:
Superintendent, Rocky Mountain National Park

02-26-1987: memorandum to associate regional director from superintendent regarding harbison ditch water rights

United States Department of the Interior

NATIONAL PARK SERVICE
Rocky Mountain National Park
Estes Park, Colorado 80517

IN REPLY REFER TO:
L54

February 26, 1987

Memorandum

To: Associate Regional Director, Park Operations,
Rocky Mountain Region

From: Superintendent, Rocky Mountain

Subject: Harbison Ditch Water Rights

This is a followup to the phone conversation between Ron Hermance and Larry Reed on February 12, concerning the filing by the Grand Lake Metropolitan Recreation District for 1.5 CFS of water from the Harbison Ditch. According to the Water Commissioner of District 51, the Recreation District filed for a second water right on July 13, 1986.

The U. S. Government has a maximum of 3.345 CFS of water in Harbison Ditch. Of this 3.345 CFS we are allowing the Recreation District the use of 1.5 CFS under Special Use Permit SP-1529-84-0003.

In August and October we had correspondence with the Recreation District in which they desired a longer term special use permit for 1.5 CFS of water from the Harbison Ditch. This request was denied in October. They apparently filed for this water right about a month before they wrote to us in August requesting a longer term permit.

We would appreciate your looking into this matter; we are especially concerned about the filing of July 13, 1986.

(Sgd) James B. Thompson

James B. Thompson
Superintendent

cc:
West Unit Manager

2/23/87

Larry Reed - West Sid, ROMO
(627-3471) Unit Mgr., Jim Dawson

Water Comm. of Dist 51 has tipped ROMO:
Grand Lake Metropol. Recr. Distr.
has appl. for 1.5 cfs fm Harbison Ditch. Is it fully appr.?
Where would they get it?
- filed in July of '86.

ROMO is already giving the Recr. Dist. 1.5 cfs to water Golf Course ... we have abt 3+ cfs
Spec. use permit allows GLMRD 1.5 cfs for golf course
Reg'l office would not approve more than 5 yrs. for S.U. permit; in Aug., '86, GLMRD came to ROMO & a req. for more than 5 yrs... but now we learn they had applied for 1.5 cfs before request.
ROMO is not using the remaining 1.5 or so; Larry believes it's flowing in Tonahutu Cr.

for loan?

~~Ditch runs Golf Course~~ Golf course has its own rt. of 1.1 cfs, but that's not enuff. Ditch where? won't carry more than abt 2.7 cfs. (1.1 cfs + 1.5 cfs is probably the capacity of the ditch.

Larry suspects Distr. is attempting to appropr. the 1.5.

WRB will research the issue: Should appl. for change in use be processed
Review dockets - any updating needed?
Contact Water Comm., Dist. 51 when well informed - what's the schedule for handling GLM Recr. Dist's applic.? - are there ways for NPS or Justice to object (or protest?)?- deadlines...?
Keep in touch & Larry. Final rec. will be to Supt. Jim Thompson.

Box 1410
(726-5253) Granby, 80446

Mar 5, 1987 - phone conversatn - Jim Daxton - Dist 51 Commissioner

asked for copy of GLMRD filing -
he referred me to Ray Walker - Div 5 Water Referee

noted that there may be 2 entities involved here: GLMRD - special permittee
Columbine Lake subdivision → he thought it might own the ~~ditch~~ ~~part~~ right carried in ditch w/ Districts used right
I have never seen this entity mentioned. except for reference to the proprietor of Columbine Lake (see letter in docket)

Feb 27, 1987 - phone conversatn - Larry Reed - RMNP Unit Mgr.

promise to send info. (including special use permit)
he has an Itarbision issue
reiterated that 1.) ditch capacity ≈ 2.7 cfs
2.) someone owns 1.1 cfs (Columbine Lake?)

on pipeline (Civil Actn #1768 - Docket 47) — [also from Tonahutu, but not linked w ditch] - water used for domestic @ Grand Lake Lodge → .072 cfs - ~~decreed~~ priority 1920

Hal Bishop - Denver - 455-2760 - Water Engineer Columbine Lake Water & Sanitatn District (CLWSD)

CLWSD owns two rights in Harbison Ditch

~~1.115 cfs~~

4.6 cfs - fish propagation [from Brecken in 1940s]

~~priority #1583~~ basin rank #1428

↓

1st owned by Harbison / Adams

1894 → adj. 1911

#1835

also 1.115 cfs wr. right 25%

↓

says U.S. own 75%

3.345 cfs

4.46 cfs total

~~their~~ both transfer schemes involves water from Windy Gap Project + trades w/ Northern District

---

GLMRD application is to get right for augmentation from same project

1.5 cfs new water, not NPS water

no increase in ditch size planned

HARBISON DITCH WATER RIGHTS

Original Decree

June 21, 1911 -- Roy Adams/ 4.6cfs/ fish culture in artificial lake/ priority #1 / November 1, 1894

August 3, 1911 -- Roy Adams and Kate Harbison/ 4.46 cfs/ irr./ April to November/ priority #199/ July 15, 1898

Acquiring the rights

July 10, 1939 -- From Kate Harbison's estate (Park Deed #49, Administartor's Deed #348) 1.65cfs/ #199/ for use during "entire year"

July 31, 1939 -- Kelley to U.S. (Deed #50) 1.115cfs/ #199/ "for use during entire year"
also:
up to 1.115cfs of #1 as not used for irrigation under #199

April 22, 1940 -- Quitclaim deed Kelley to U.S./ quiets Kelley title to Harbison estate water right/ Kelley retains 2.23cfs of #199, K.Harbison estate retains .58cfs/ Kelley claims all of #1 right owned formerly by Roy Adams

May 21, 1940 -- Quitclaim deed Adams to Kelley/ all of #1 right

June 10, 1940 -- Grand County Decree #1452/ Kelley granted all of 4.6cfs, priority #1

June 10, 1940 -- Quitclaim deed Kelley to U.S. (#53643)/ 1.65cfs/ #1 right/ to "supplement" the 1.65 of #199 from K. Harbison

November 7, 1952 Gudgel to U.S. (Deed #124)/ .58cfs/ #199

February 15, 1960 Letter in docket lists U.S. rights:
3.345cfs/ #1/ Ap15-Nov11 ?
2.765cfs/ #199/ Nov11-Ap15
From my calculations, the larger right should be #199, the smaller, #1. see bottom

August 12, 1975 Decree, Civil Action #2502 (W-2502)/ water rights of Columbine Lake Water and Sanitation District in Harbison Ditch:
1.225cfs/ #1 right/ tabulation #1583
1.115cfs/ #199/ tabulation #1835
Difference from total flow leaves 3.345cfs for each right.

#199
1.65 - Deed #49 - Harbison 12/11/39
.58 " 124 - Gudgel 11/7/52
1.115 " 50 - Kelley 7/31/39
3.345

#1
1.115 - Deed #50 Kelley 7/31/39
1.65 - Quitclaim/Kelley 6/10/40
2.765

Harbison Ditch

2 filings

(1.) GLMRD - 1.5 cfs conditional right

(2.) CLWSD - water exchange @ Harbison Ditch
Windy Gap Project

DataCom / Made in U.S.A.

GLMRD

(1.) no rights in ditch or water right on Tonahutu Ck.

(2.) special use permit 1.5 cfs
Sp 15 - Nov. 1 - Golf Course

5 yr term - want extended

Why? → probably loans/ bonds etc.

expires 12/31/88

(3.) conditional right →

(A.) may be for use in water exchange
if they have no rights, they can't enter exchange agreement w/o ROMO entering to.

(B.) may want to expand consumptive use

(4.) no plans to expand ditch
↓
say ditch will carry 4+ cfs
ROMO says only about 2.7 cfs

Rights on ditch

original – 4.6 cfs / fish culture / # 1
1894

4.46 / irr / Ap-Nov / #199 / 1894

we acquired ~~rights~~ part of each right as we bought land + separate rights

~~4600:~~ ~~3.345 / #1~~

as I see it : 3.345 / #1 / yr round
2.765 / #199 / irr / Ap-Nov

CLWSD

Civil Action #2502 (8/12/75)

1.225 cfs / #1 / fish culture
adds correctly

1.115 cfs / #199 / orig irr.
changed to allow "maintenance of stream flow of Columbine Ck. to offset depletion caused by increased muni/rec + irr. uses from other divisions

unclear where extra .58 cfs of this right is

CLSWD – has interest in ditch + r-of-way

Other concerns:

U.S right to 1.265 / #199 / cir.
is not being diverted for irr.
1.5 is leased
a change in use should be filed

also:

all of 3.345 / #1 / all qr. - fish culture
not being diverted -
a change in use should be filed.

By filing U.S would clarify claims in ditch. Hal Bishop of CLWSD told me that it ~~has~~ owns all of #1 + 1.115 of #199.
I agree w/ latter, not former.

DataCom / Made in U.S.A.

Options / Conditional Right - GLMRD

(1.) File motion to intervene to oppose

a.) claim no water to appropriate

b.) claim GLMRD has no proprietary interest in ditch + no right to claim it as a pt. of diversion

or

c.) tell GLMRD we will not renew their 5 yr permit after 1988 if they don't withdraw the application

Problems w/ approach:

(1.) Often hard to stop conditional right

(2.) Buying hard to prove since ROMO allows 1.5 to pass in ditch now. * Park ~~approach~~ enjoys having the water flow in the ditch.

(3.) As long as ROMO wants flow in ditch, GLMRD action protects the situation. if it is to be used to exchange water in Windy Gap project.

DataCom / Made in U.S.A.

(2) Ignore the conditional right filing.

Problems:

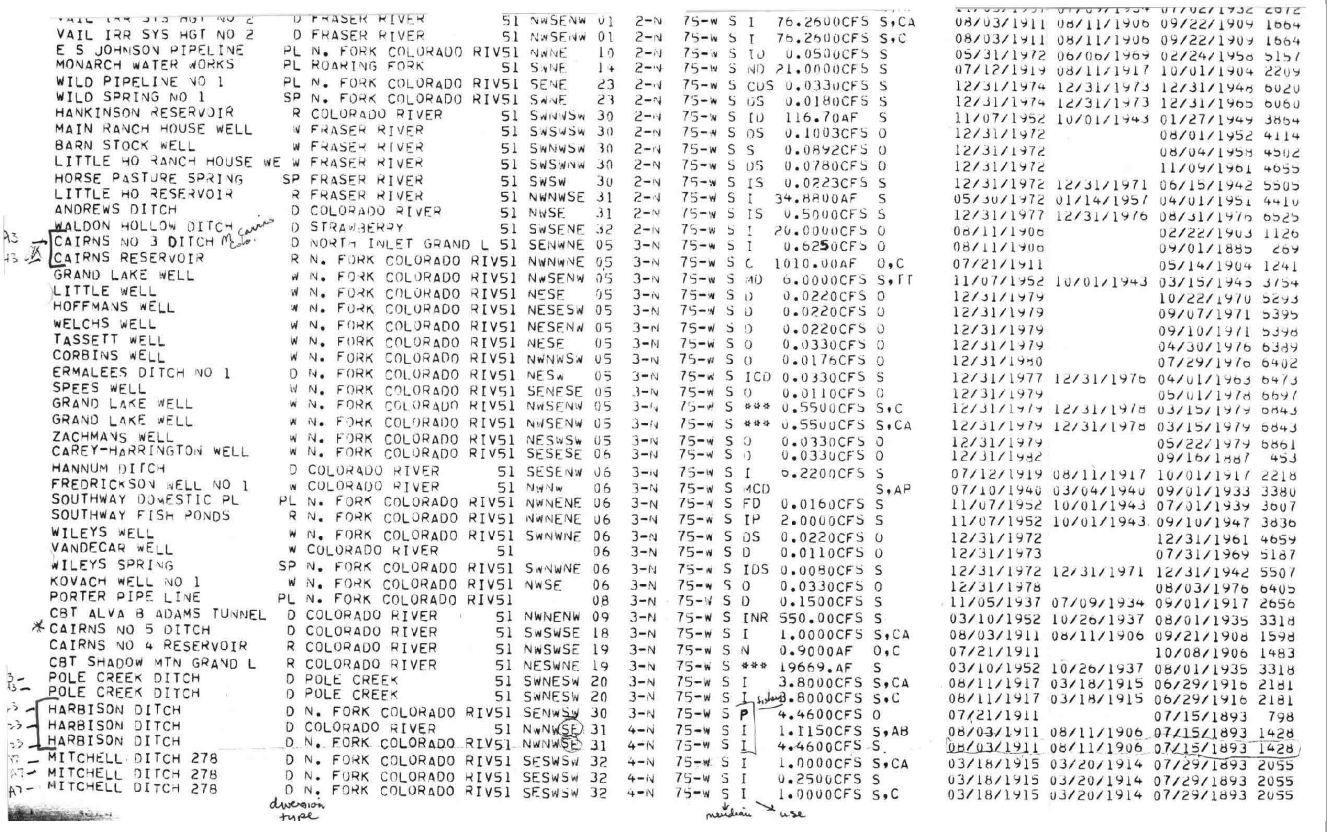
A.) A conditional right may give the GLMRD certain rights in Harbison Ditch (i.e. right of access). However, if the U.S refuses them access their only recourse would be condemnation.

↓ ↓

Whether GLMRD could enlarge the ditch is unclear. They say they have no such plans.

It should be noted that CLWSD does have a right in the ditch. To end flows in the ditch would probably require buying this right.

DataCom / Made in U.S.A.



VAIL IRR SYS HGT NO 2	D	FRASER RIVER	51	NWSENW	01	2-N	75-W	S	I	76.2600CFS	S,CA	08/03/1911	08/11/1906	09/22/1909	1664
VAIL IRR SYS HGT NO 2	D	FRASER RIVER	51	NWSENW	01	2-N	75-W	S	I	76.2600CFS	S,C	08/03/1911	08/11/1906	09/22/1909	1664
E S JOHNSON PIPELINE	PL	N. FORK COLORADO RIV	51	NWNE	10	2-N	75-W	S	IO	0.0500CFS	S	05/31/1972	06/06/1964	02/24/1956	5157
MONARCH WATER WORKS	PL	ROARING FORK	51	SWNE	14	2-N	75-W	S	MD	21.0000CFS	S	07/12/1919	08/11/1917	10/01/1904	2209
WILD PIPELINE NO 1	PL	N. FORK COLORADO RIV	51	SENE	23	2-N	75-W	S	COS	0.0330CFS	S	12/31/1974	12/31/1973	12/31/1946	6020
WILD SPRING NO 1	SP	N. FORK COLORADO RIV	51	SWNE	23	2-N	75-W	S	OS	0.0180CFS	S	12/31/1974	12/31/1973	12/31/1965	6060
HANKINSON RESERVOIR	R	COLORADO RIVER	51	SWNWSW	30	2-N	75-W	S	IO	116.70AF	S	11/07/1952	10/01/1943	01/27/1949	3854
MAIN RANCH HOUSE WELL	W	FRASER RIVER	51	SWSWSW	30	2-N	75-W	S	OS	0.1003CFS	O	12/31/1972		08/01/1952	4114
BARN STOCK WELL	W	FRASER RIVER	51	SWNWSW	30	2-N	75-W	S	S	0.0892CFS	O	12/31/1972		08/04/1958	4502
LITTLE HO RANCH HOUSE WE	W	FRASER RIVER	51	SWSWNW	30	2-N	75-W	S	OS	0.0780CFS	O	12/31/1972		11/09/1961	4855
HORSE PASTURE SPRING	SP	FRASER RIVER	51	SWSW	30	2-N	75-W	S	IS	0.0223CFS	S	12/31/1972	12/31/1971	06/15/1942	5505
LITTLE HO RESERVOIR	R	FRASER RIVER	51	NWNWSE	31	2-N	75-W	S	I	34.8800AF	S	05/30/1972	01/14/1957	04/01/1951	4410
ANDREWS DITCH	D	COLORADO RIVER	51	NWSE	31	2-N	75-W	S	IS	0.5000CFS	S	12/31/1977	12/31/1976	08/31/1976	6525
MALDON HOLLOW DITCH	D	STRAWBERRY	51	SWSENE	32	2-N	75-W	S	I	20.0000CFS	O	08/11/1906		02/22/1903	1126
CAIRNS NO 3 DITCH	D	NORTH INLET GRAND L	51	SENWNE	05	3-N	75-W	S	I	0.6250CFS	O	08/11/1906		09/01/1885	269
CAIRNS RESERVOIR	R	N. FORK COLORADO RIV	51	NWNWNE	05	3-N	75-W	S	C	1010.00AF	O,C	07/21/1911		05/14/1904	1241
GRAND LAKE WELL	W	N. FORK COLORADO RIV	51	NWSENW	05	3-N	75-W	S	MD	6.0000CFS	S,TT	11/07/1952	10/01/1943	03/15/1945	3754
LITTLE WELL	W	N. FORK COLORADO RIV	51	NESE	05	3-N	75-W	S	D	0.0220CFS	O	12/31/1979		10/22/1970	5293
HOFFMANS WELL	W	N. FORK COLORADO RIV	51	NESESW	05	3-N	75-W	S	D	0.0220CFS	O	12/31/1979		09/07/1971	5395
WELCHS WELL	W	N. FORK COLORADO RIV	51	NESENW	05	3-N	75-W	S	D	0.0220CFS	O	12/31/1979		09/10/1971	5398
TASSETT WELL	W	N. FORK COLORADO RIV	51	NESE	05	3-N	75-W	S	O	0.0330CFS	O	12/31/1979		04/30/1976	6389
CORBINS WELL	W	N. FORK COLORADO RIV	51	NWNWSW	05	3-N	75-W	S	O	0.0176CFS	O	12/31/1980		07/29/1976	6402
ERMALEES DITCH NO 1	D	N. FORK COLORADO RIV	51	NESW	05	3-N	75-W	S	ICD	0.0330CFS	S	12/31/1977	12/31/1976	04/01/1963	6473
SPEES WELL	W	N. FORK COLORADO RIV	51	SENESE	05	3-N	75-W	S	O	0.0110CFS	O	12/31/1979		05/01/1978	6697
GRAND LAKE WELL	W	N. FORK COLORADO RIV	51	NWSENW	05	3-N	75-W	S	***	0.5500CFS	S,C	12/31/1979	12/31/1978	03/15/1979	6843
GRAND LAKE WELL	W	N. FORK COLORADO RIV	51	NWSENW	05	3-N	75-W	S	***	0.5500CFS	S,CA	12/31/1979	12/31/1978	03/15/1979	6843
ZACHMANS WELL	W	N. FORK COLORADO RIV	51	NESWSW	05	3-N	75-W	S	O	0.0330CFS	O	12/31/1979		05/22/1979	6861
CAREY-HARRINGTON WELL	W	N. FORK COLORADO RIV	51	SESESE	06	3-N	75-W	S	O	0.0330CFS	O	12/31/1982		09/16/1887	453
HANNUM DITCH	D	COLORADO RIVER	51	SESENW	06	3-N	75-W	S	I	5.2200CFS	S	07/12/1919	08/11/1917	10/01/1917	2218
FREDRICKSON WELL NO 1	W	COLORADO RIVER	51	NWNW	06	3-N	75-W	S	MCD		S,AP	07/10/1940	03/04/1940	09/01/1933	3380
SOUTHWAY DOMESTIC PL	PL	N. FORK COLORADO RIV	51	NWNENE	06	3-N	75-W	S	FD	0.0160CFS	S	11/07/1952	10/01/1943	07/01/1939	3607
SOUTHWAY FISH PONDS	R	N. FORK COLORADO RIV	51	NWNENE	06	3-N	75-W	S	IP	2.0000CFS	S	11/07/1952	10/01/1943	09/10/1947	3836
WILEYS WELL	W	N. FORK COLORADO RIV	51	SWNWNE	06	3-N	75-W	S	OS	0.0220CFS	O	12/31/1972		12/31/1961	4659
VANDECAR WELL	W	COLORADO RIVER	51		06	3-N	75-W	S	D	0.0110CFS	O	12/31/1973		07/31/1969	5187
WILEYS SPRING	SP	N. FORK COLORADO RIV	51	SWNWNE	06	3-N	75-W	S	IDS	0.0080CFS	S	12/31/1972	12/31/1971	12/31/1942	5507
KOVACH WELL NO 1	W	N. FORK COLORADO RIV	51	NWSE	06	3-N	75-W	S	O	0.0330CFS	O	12/31/1978		08/03/1976	6405
PORTER PIPE LINE	PL	N. FORK COLORADO RIV	51		08	3-N	75-W	S	D	0.1500CFS	S	11/05/1937	07/09/1934	09/01/1917	2656
CBT ALVA B ADAMS TUNNEL	D	COLORADO RIVER	51	NWNENW	09	3-N	75-W	S	INR	550.00CFS	S	03/10/1952	10/26/1937	08/01/1935	3318
CAIRNS NO 5 DITCH	D	COLORADO RIVER	51	SWSWSE	18	3-N	75-W	S	I	1.0000CFS	S,CA	08/03/1911	08/11/1906	09/21/1908	1598
CAIRNS NO 4 RESERVOIR	R	COLORADO RIVER	51	NWSWSE	19	3-N	75-W	S	N	0.9000AF	O,C	07/21/1911		10/08/1906	1483
CBT SHADOW MTN GRAND L	R	COLORADO RIVER	51	NESWNE	19	3-N	75-W	S	***	19669.AF	S	03/10/1952	10/26/1937	08/01/1935	3318
POLE CREEK DITCH	D	POLE CREEK	51	SWNESW	20	3-N	75-W	S	I	3.8000CFS	S,CA	08/11/1917	03/18/1915	06/29/1916	2181
POLE CREEK DITCH	D	POLE CREEK	51	SWNESW	20	3-N	75-W	S	I	3.8000CFS	S,C	08/11/1917	03/18/1915	06/29/1916	2181
HARBISON DITCH	D	N. FORK COLORADO RIV	51	SENWSW	30	3-N	75-W	S	P	4.4600CFS	O	07/21/1911		07/15/1893	798
HARBISON DITCH	D	COLORADO RIVER	51	NWNWSE	31	4-N	75-W	S	I	1.1150CFS	S,AB	08/03/1911	08/11/1906	07/15/1893	1428
HARBISON DITCH	D	N. FORK COLORADO RIV	51	NWNWSE	31	4-N	75-W	S	I	4.4600CFS	S	08/03/1911	08/11/1906	07/15/1893	1428
MITCHELL DITCH 278	D	N. FORK COLORADO RIV	51	SESWSW	32	4-N	75-W	S	I	1.0000CFS	S,CA	03/18/1915	03/20/1914	07/29/1893	2055
MITCHELL DITCH 278	D	N. FORK COLORADO RIV	51	SESWSW	32	4-N	75-W	S	I	0.2500CFS	S	03/18/1915	03/20/1914	07/29/1893	2055
MITCHELL DITCH 278	D	N. FORK COLORADO RIV	51	SESWSW	32	4-N	75-W	S	I	1.0000CFS	S,C	03/18/1915	03/20/1914	07/29/1893	2055

ARTICLE 86

Rights-of-Way and Ditches

37-86-101. Sections liberally construed.-- This section and sections 37-86-108 to 37-86-110 are passed in the exercise of the policy power of the state, and their provisions shall be liberally construed for the purpose of effectuating their object.

37-86-102. Right-of-way through other lands.-- Any person owning a water right or conditional water right shall be entitled to a right-of-way through the lands which lie between the point of diversion and point of use or proposed use for the purpose of transporting water for beneficial use in accordance with said water right or conditional water right.

37-86-103. Extent of right-of-way.-- Such right-of-way shall extend only to a ditch, dike, cutting, pipeline, or other structure sufficient for the purpose required.

37-86-104. Condemnation of right-of-way.-- Upon the refusal of owners of tracts of land through which said right-of-way is proposed to run, to allow passage through their property, the person desiring such right-of-way may proceed to condemn and take same under the provisions of articles 1 to 7 of title 38, C.R.A. 1973, concerning eminent domain.

37-86-105. No land burdened with more than one ditch.-- No tract or parcel of improved or occupied land, without the written consent of the owner therof, shall be subjected to the burden of two or more ditches or other structures constructed for the purpose of conveying water through said land when the same object can feasibly and practicably be attained by uniting and conveying all the water necessary to be conveyed through such property through one ditch or other structure.

37-86-106. Shortest route must be taken.-- Whenever any persons find it necessary to convey water through the lands of others they shall select for the line of such conveyance the shortest and most direct route practicable upon which said ditch can be constructed with uniform or nearly uniform grade.

37-86-107. Owner of ditch must permit enlargement.-- No persons having constructed a private ditch for the purposes and in the manner provided in section 37-86-106 shall prohibit or prevent any other person from enlarging or using any ditch by them constructed in common with them, upon payment to them of a reasonable proportion of the cost of construction of said ditch.

37-86-108. Incorporation of lateral ditch owners.-- Whenever the owners of sixty percent or more of the area of lands served by any one lateral ditch used for the delivery of water for irrigation from a common source organizes a corporation having for its object the taking over and owning of all of the interests of the incorporators in said lateral, said incorporators to recieve shares of stock in said corporation for their holdings, the corporation as organized has power, under the eminent domain laws of the state of Colorado, to condemn the interest in said lateral, belonging to the owners of the remaining forty percent or less of the lands so served by the lateral.

37-86-109. Consideration of incorporation benefits.-- In such condemnation proceedings, the court, jury, or commissioners having authority in the premises shall consider, as one of the elements of benefit accruing to the owners of the property so being condemned, the advantages accruing to said owner by reason of the organization of said corporation.

37-86-110. Payment of damages.-- It is lawful for such corporation to pay the damages, if any, assessed on account of the taking in such condemnation proceedings, in its own corporate stock at the same price per share paid therefor by the original incorporators, and the court, jury, or commissioners having authority in the premises, in arriving at the damage to be awarded, shall take into consideration the amount of stock which the original incorporators have recieved for their holdings.

37-86-111. Head of ditch may be extended upstream.-- In case the channel of any natural stream becomes so cut out, lowered, turned aside, or otherwise changed from any cause, as to prevent any ditch, canal, or feeder of any reservoir from receiving the proper inflow of water to which it may be entitled from such natural stream, the owners of such ditch, canal, or feeder have the right to extend the head of such ditch, canal, or feeder to such distance up the stream which supplies the same as may be necessary for securing a sufficient flow of water into the same. For that purpose they have the same right to maintain proceedings for condemnation of right-of-way for such extension as in case of constructing a new ditch. The priority of right to take water from such stream, through such ditch, canal, or feeder as to any such ditch, canal, or feeder shall remain unaffected in any respect by reason of such extension; but no such extension shall interfere with the complete use or enjoyment of any ditch, canal, or feeder.

37-86-112. Water to be prorated among consumers.-- If at any time any ditch or reservoir from which water is drawn for irrigation shall not be entitled to a full supply of water from the natural stream which supplies the same, the water actually received into and carried by such ditch, or held in such reservoir, shall be divided among all the consumers of water from such ditch or reservoir, as well as the owners, shareholders, or stockholders thereof, as the parties purchasing water therefrom, and parties taking water partly under and by virtue of holding shares, and partly by purchasing the

Tonahuta Creek

Owner | Priority date | Place of Use

Alan Martellaro
1-945-5665

Structures

Cairn #2 Reservoir –

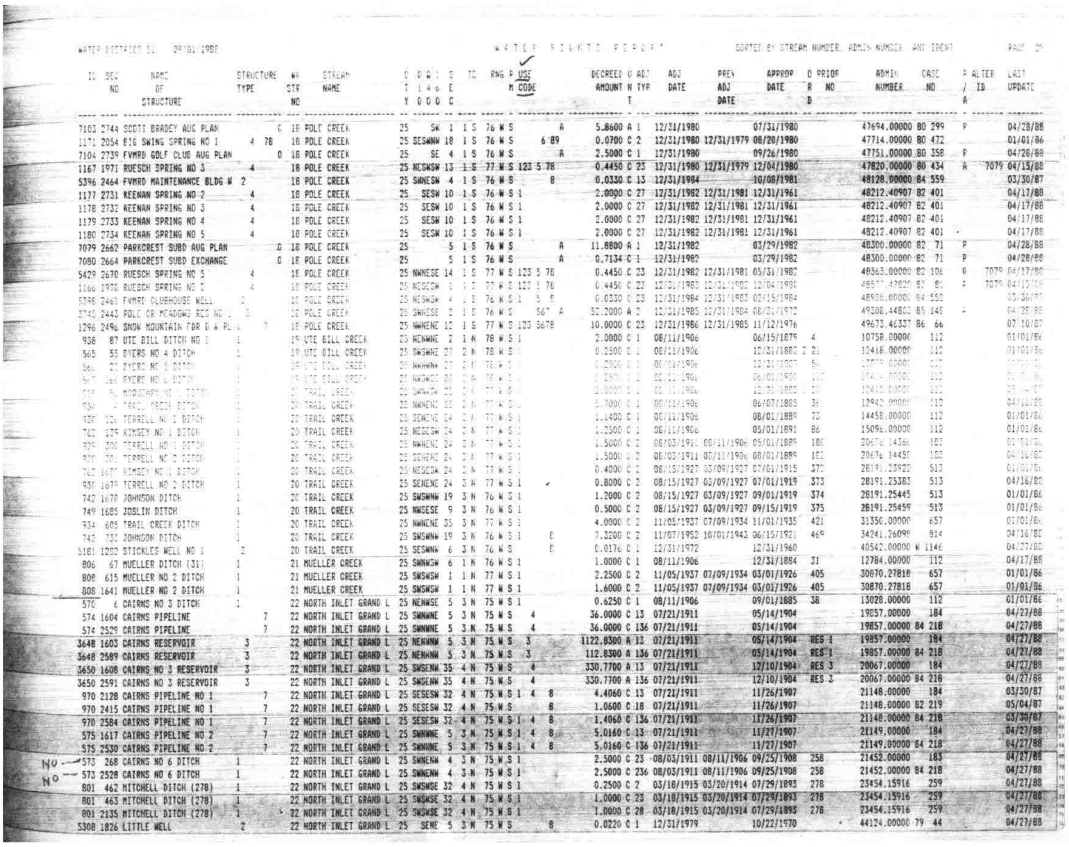
#1
Harbsmi Ditch #2

BB Harbsmi Ditch – abandoned

Grand Lake Pipeline – transferred to G.L well
6 c.f.s.

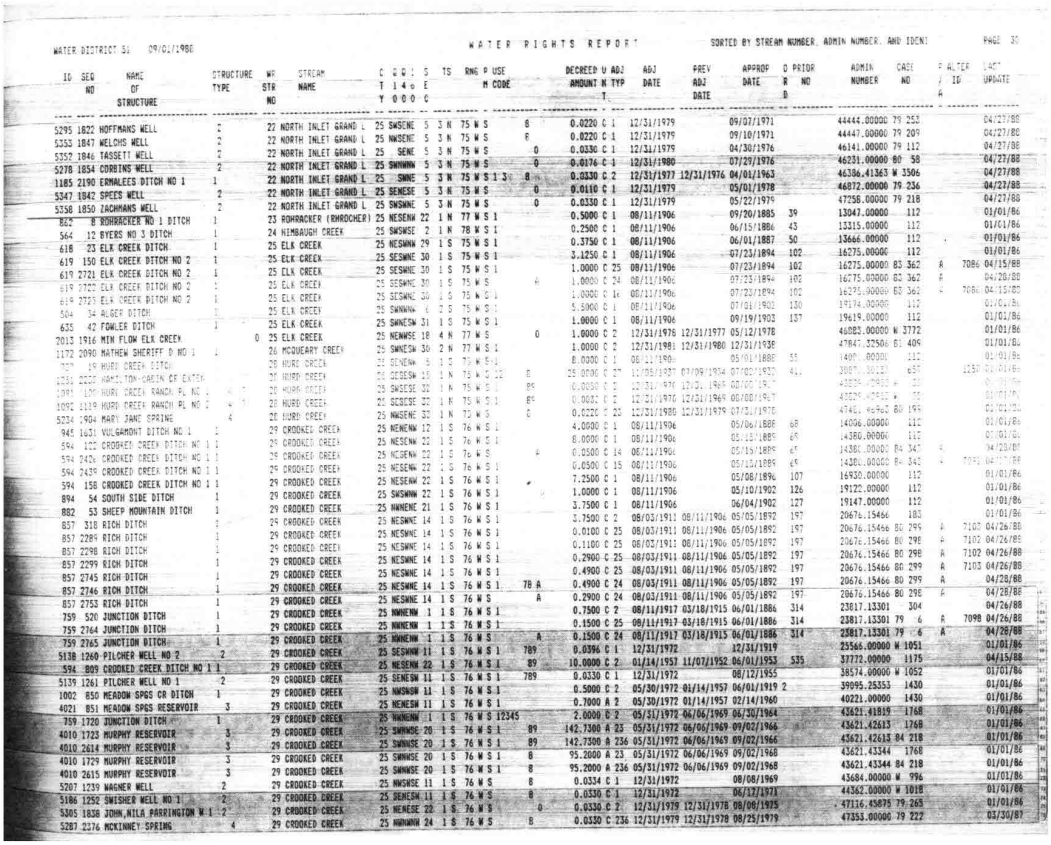
↳ diverting about 2 cfs

03-01-1987: list of wells, ditches, etc.



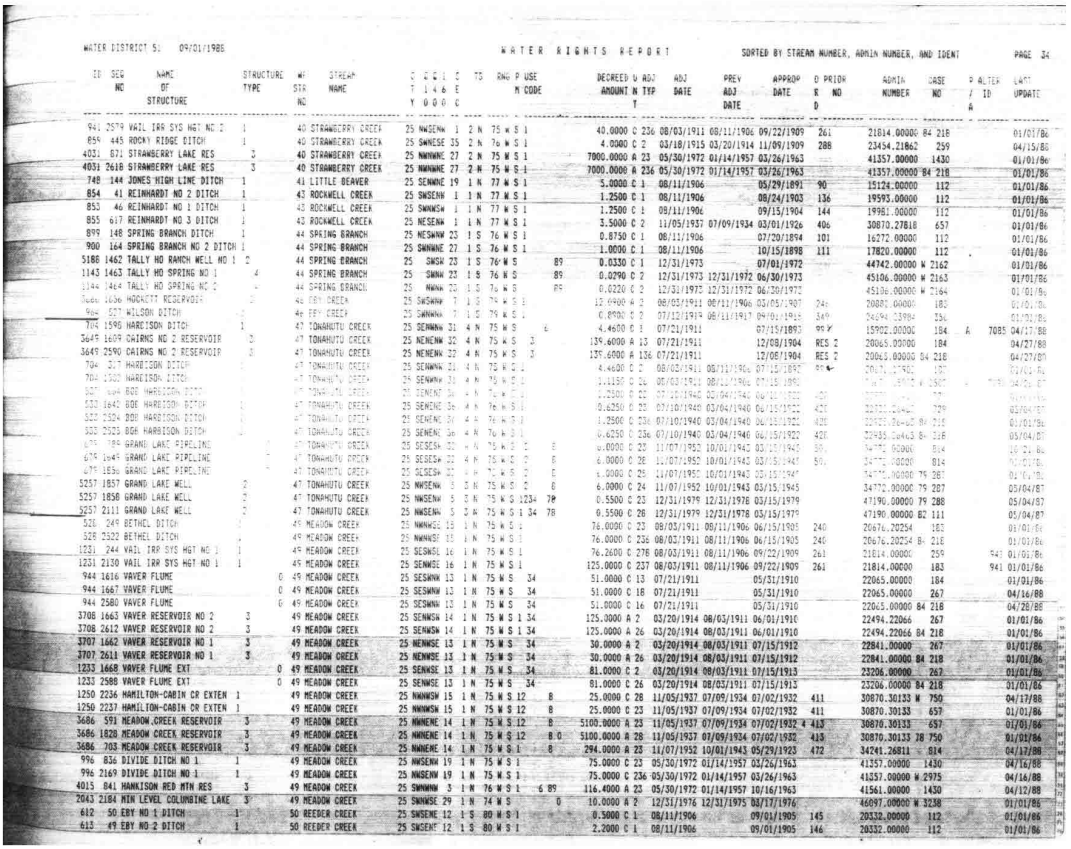
WATER DISTRICT 01 09/01/1988 — WATER RIGHTS REPORT — SORTED BY STREAM NUMBER, ADMIN NUMBER, APP IDENT — PAGE 29

ID	SEQ NO	NAME OF STRUCTURE	STRUCTURE TYPE	WR CTR NO	STREAM NAME	DIV	WD	CO	RNG	F	USE M	CODE	DECREED AMOUNT	U	ADJ N TYP	ADJ DATE	PREV ADJ DATE	APPROP DATE	O R D	PRIOR NO	ADMIN NUMBER	CASE NO	P / A	ALTER ID	LAST UPDATE
7103	2744	SCOTT BRADEY AUG PLAN	C	18	POLE CREEK	25	SW	1	1 S	76 W	S	A	5.8600	C 1		12/31/1980		07/31/1980			47694.00000	80 299	P		04/28/88
1171	2054	616 SWING SPRING NO 1	4	78	18 POLE CREEK	25	SESWNW	18	1 S	76 W	S	6 89	0.0700	C 2		12/31/1980	12/31/1979	08/20/1980			47714.00000	80 472			01/01/86
7104	2739	FVMRD GOLF CLUB AUG PLAN		0	18 POLE CREEK	25	SE	4	1 S	76 W	S	A	2.5000	C 1		12/31/1980		09/26/1980			47751.00000	80 358	P		04/28/88
1167	1971	RUESCH SPRING NO 3	4		18 POLE CREEK	25	NESWSW	13	1 S	77 W	S	123 5 78	0.4450	C 23		12/31/1980	12/31/1979	12/04/1980			47820.00000	80 434	A	7079	04/15/88
5396	2464	FVMRD MAINTENANCE BLDG W	2		18 POLE CREEK	25	SWNESW	4	1 S	76 W	S	B	0.0330	C 13		12/31/1984		10/08/1981			48128.00000	84 559			03/30/87
1177	2731	KEENAN SPRING NO 2	4		18 POLE CREEK	25	SESW	10	1 S	76 W	S	1	2.0000	C 27		12/31/1982	12/31/1981	12/31/1961			48212.40907	82 401			04/17/88
1178	2732	KEENAN SPRING NO 3	4		18 POLE CREEK	25	SESW	10	1 S	76 W	S	1	2.0000	C 27		12/31/1982	12/31/1981	12/31/1961			48212.40907	82 401			04/17/88
1179	2733	KEENAN SPRING NO 4	4		18 POLE CREEK	25	SESW	10	1 S	76 W	S	1	2.0000	C 27		12/31/1982	12/31/1981	12/31/1961			48212.40907	82 401			04/17/88
1180	2734	KEENAN SPRING NO 5	4		18 POLE CREEK	25	SESW	10	1 S	76 W	S	1	2.0000	C 27		12/31/1982	12/31/1981	12/31/1961			48212.40907	82 401			04/17/88
7079	2662	PARKCREST SUBD AUG PLAN		0	18 POLE CREEK	25		5	1 S	76 W	S	A	11.8800	A 1		12/31/1982		03/29/1982			48300.00000	82 71	P		04/28/88
7080	2664	PARKCREST SUBD EXCHANGE		0	18 POLE CREEK	25		5	1 S	76 W	S	A	0.7134	C 1		12/31/1982		03/29/1982			48300.00000	82 71	P		04/28/88
5429	2670	RUESCH SPRING NO 5	4		18 POLE CREEK	25	NWNESE	14	1 S	77 W	S	123 5 78	0.4450	C 23		12/31/1982	12/31/1981	03/31/1982			48363.00000	82 106	R	7079	04/17/88
1166	1970	RUESCH SPRING NO 1	4		18 POLE CREEK	25	NESESW	13	1 S	77 W	S	123 5 78	0.4450	C 23		12/31/1982	12/31/1981	12/04/1980			48377.40907	82 [illegible]	P	7079	04/15/88
5396	2463	FVMRD CLUBHOUSE WELL	2		18 POLE CREEK	25	NESW	4	1 S	76 W	S	1 5 B	0.0330	C 23		12/31/1984	12/31/1982	02/15/1984			48436.00000	84 552			03/30/87
5742	2442	POLE CR MEADOWS RES NO 1	3		18 POLE CREEK	25	SWNESE	2	1 S	76 W	S	567 A	32.2000	A 2		12/31/1985	12/31/1984	08/31/1972			49206.44863	85 145			04/28/88
1296	2496	SNOW MOUNTAIN FOR D & PL	7		18 POLE CREEK	25	NWNENE	12	1 S	77 W	S	123 5678	10.0000	C 23		12/31/1986	12/31/1985	11/12/1976			49673.46337	86 66			07/10/87
936	87	UTE BILL DITCH NO 1	1		19 UTE BILL CREEK	25	NENWNE	2	1 N	78 W	S	1	2.0000	C 1		08/11/1906		06/15/1879	4		10758.00000	112			01/01/86
565	55	BYERS NO 4 DITCH	1		19 UTE BILL CREEK	25	SWSWNE	27	2 N	78 W	S		0.2500	C 1		08/11/1906		12/31/1882	2	21	10418.00000	112			01/01/86
564	54	BYERS NO 3 DITCH	1		19 UTE BILL CREEK	25	NWNWSE	27	2 N	78 W	S	1	0.2500	C 1		08/11/1906		12/31/1882	2	54	10418.00000	112			01/01/86
567	140	BYERS NO 6 DITCH	1		19 UTE BILL CREEK	25	NWSWSE	27	2 N	78 W	S	1	0.2500	C 1		08/11/1906		06/01/1900		140	10418.00000	112			01/01/86
568	56	MORPHEY NO 1 DITCH	1		20 TRAIL CREEK	25	SWNWSE	23	2 N	77 W	S	1	2.5000	C 1		08/11/1906		12/31/1882	2	56	10418.00000	112			01/01/86
934	-	TRAIL CREEK DITCH	1		20 TRAIL CREEK	25	NWNENW	33	2 N	77 W	S	1	1.7000	C 1		08/11/1906		06/07/1883	36		12942.00000	112			04/10/87
937	120	TERRELL NO 1 DITCH	1		20 TRAIL CREEK	25	SENENE	24	2 N	77 W	S	1	1.1400	C 1		08/11/1906		08/01/1889	70		14458.00000	112			01/01/86
762	125	KINSEY NO 1 DITCH	1		20 TRAIL CREEK	25	NESESW	24	2 N	77 W	S	1	1.2500	C 1		08/11/1906		05/01/1891	86		15096.00000	112			01/01/86
935	200	TERRELL NO 1 DITCH	1		20 TRAIL CREEK	25	NWNENE	24	2 N	77 W	S	1	1.5000	C 2		08/03/1911	08/11/1906	05/01/1889	186		20674.14361	183			01/01/86
937	201	TERRELL NO 2 DITCH	1		20 TRAIL CREEK	25	SENENE	24	2 N	77 W	S	1	1.5000	C 2		08/03/1911	08/11/1906	08/01/1889	151		20674.14457	183			04/16/88
762	1677	KINSEY NO 2 DITCH	1		20 TRAIL CREEK	25	NESESW	24	2 N	77 W	S	1	0.4030	C 2		08/15/1927	03/09/1927	07/01/1919	372		28191.25383	513			04/16/88
930	1679	TERRELL NO 2 DITCH	1		20 TRAIL CREEK	25	SENENE	24	2 N	77 W	S	1	0.8000	C 2		08/15/1927	03/09/1927	07/01/1919	373		28191.25383	513			04/16/88
742	1678	JOHNSON DITCH	1		20 TRAIL CREEK	25	SWSWNW	19	3 N	76 W	S	1	1.2000	C 2		08/15/1927	03/09/1927	09/01/1919	374		28191.25445	513			01/01/86
749	1685	JOSLIN DITCH	1		20 TRAIL CREEK	25	NWSESE	9	3 N	76 W	S	1	0.5000	C 2		08/15/1927	03/09/1927	09/15/1919	375		28191.25459	513			01/01/86
934	605	TRAIL CREEK DITCH	1		20 TRAIL CREEK	25	NWNENE	35	3 N	77 W	S	1	4.0000	C 2		11/05/1937	07/09/1934	11/01/1935	421		31350.00000	657			01/01/86
742	733	JOHNSON DITCH	1		20 TRAIL CREEK	25	SWSWNW	19	3 N	76 W	S	1 B	3.3200	C 2		11/07/1952	10/01/1943	06/15/1921	469		34241.26098	814			04/16/88
5181	1202	STICKLES WELL NO 1	2		20 TRAIL CREEK	25	SESWNW	6	3 N	76 W	S	B	0.0176	C 1		12/31/1972		12/31/1960			40542.00000	W 1146			04/27/88
806	67	MUELLER DITCH (31)	1		21 MUELLER CREEK	25	SWNWSW	6	1 N	76 W	S	1	1.0000	C 1		08/11/1906		12/31/1884	31		12784.00000	112			04/17/88
808	635	MUELLER NO 2 DITCH	1		21 MUELLER CREEK	25	SWSWSW	1	1 N	77 W	S	1	2.2500	C 2		11/05/1937	07/09/1934	03/01/1926	405		30870.27818	657			01/01/86
808	1641	MUELLER NO 2 DITCH	1		21 MUELLER CREEK	25	SWSWSW	1	1 N	77 W	S	1	1.6000	C 2		11/05/1937	07/09/1934	03/01/1926	405		30870.27818	657			01/01/86
570	6	CAIRNS NO 3 DITCH	1		22 NORTH INLET GRAND L	25	NENWSE	5	3 N	75 W	S	1	0.6250	C 1		08/11/1906		09/01/1885	38		13028.00000	112			01/01/86
574	1604	CAIRNS PIPELINE		7	22 NORTH INLET GRAND L	25	SWNWNE	5	3 N	75 W	S	4	36.0000	C 13		07/21/1911		05/14/1904			19857.00000	184			04/27/88
574	2529	CAIRNS PIPELINE		7	22 NORTH INLET GRAND L	25	SWNWNE	5	3 N	75 W	S	4	36.0000	C 136		07/21/1911		05/14/1904			19857.00000	84 218			04/27/88
3648	1603	CAIRNS RESERVOIR	3		22 NORTH INLET GRAND L	25	NENWNW	5	3 N	75 W	S	3	112.8300	A 12		07/21/1911		05/14/1904	RES 1		19857.00000	184			04/27/88
3648	2589	CAIRNS RESERVOIR	3		22 NORTH INLET GRAND L	25	NENWNW	5	3 N	75 W	S	3	112.8300	A 136		07/21/1911		05/14/1904	RES 1		19857.00000	84 218			04/27/88
3650	1608	CAIRNS NO 3 RESERVOIR	3		22 NORTH INLET GRAND L	25	SWSENW	35	4 N	75 W	S	4	330.7700	A 13		07/21/1911		12/10/1904	RES 3		20067.00000	184			04/27/88
3650	2591	CAIRNS NO 3 RESERVOIR	3		22 NORTH INLET GRAND L	25	SWSENW	35	4 N	75 W	S	4	330.7700	A 136		07/21/1911		12/10/1904	RES 3		20067.00000	84 218			04/27/88
970	2128	CAIRNS PIPELINE NO 1		7	22 NORTH INLET GRAND L	25	SESESW	32	4 N	75 W	S	1 4 B	4.4066	C 13		07/21/1911		11/26/1907			21148.00000	184			03/30/87
970	2415	CAIRNS PIPELINE NO 1		7	22 NORTH INLET GRAND L	25	SESESW	32	4 N	75 W	S	1 4 B	1.0600	C 18		07/21/1911		11/26/1907			21148.00000	B2 219			05/04/87
970	2584	CAIRNS PIPELINE NO 1		7	22 NORTH INLET GRAND L	25	SESESW	32	4 N	75 W	S	1 4 B	1.4060	C 136		07/21/1911		11/26/1907			21148.00000	84 218			03/30/87
575	1617	CAIRNS PIPELINE NO 2		7	22 NORTH INLET GRAND L	25	SWNWNE	5	3 N	75 W	S	1 4 B	5.0160	C 13		07/21/1911		11/27/1907			21149.00000	184			04/27/88
575	2530	CAIRNS PIPELINE NO 2		7	22 NORTH INLET GRAND L	25	SWNWNE	5	3 N	75 W	S	1 4 B	5.0160	C 136		07/21/1911		11/27/1907			21149.00000	84 218			04/27/88
NO —	572	268	CAIRNS NO 6 DITCH	1		22 NORTH INLET GRAND L	25	SWNENW	4	3 N	75 W	S	1		2.5000	C 23	08/03/1911	08/11/1906	09/25/1908	258		21452.00000	183			04/27/88
NO —	573	2528	CAIRNS NO 6 DITCH	1		22 NORTH INLET GRAND L	25	SWNENW	4	3 N	75 W	S	1		2.5000	C 236	08/03/1911	08/11/1906	09/25/1908	258		21452.00000	84 218			04/27/88
	801	462	MITCHELL DITCH (278)	1		22 NORTH INLET GRAND L	25	SWSWSE	32	4 N	75 W	S	1		0.2500	C 2	03/18/1915	03/20/1914	07/29/1893	278		23454.15916	259			04/27/88
	801	463	MITCHELL DITCH (278)	1		22 NORTH INLET GRAND L	25	SWSWSE	32	4 N	75 W	S	1		1.0000	C 23	03/18/1915	03/20/1914	07/29/1893	278		23454.15916	259			04/27/88
	801	2135	MITCHELL DITCH (278)	1		22 NORTH INLET GRAND L	25	SWSWSE	32	4 N	75 W	S	1		1.0000	C 28	03/18/1915	03/20/1914	07/29/1893	278		23454.15916	259			04/27/88
5308	1826	LITTLE WELL		2	22 NORTH INLET GRAND L	25	SENE	5	3 N	75 W	S	B	0.0220	C 1		12/31/1979		10/22/1970			44124.00000	79 44			04/27/88



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ID	SEQ NO	NAME OF STRUCTURE	STRUCTURE TYPE	WR STR NO	STREAM NAME	CYTOC	TS	RNG	PM	USE CODE	DECREED AMOUNT	U	ADJ T.	ADJ DATE	PREV ADJ DATE	APPROP DATE	D PRIOR R D	ADMIN NUMBER	CASE NO	P	ALTER / ID A	LAST UPDATE
5295	1822	HOFFMANS WELL	2	22	NORTH INLET GRAND L	25 SWSENE	5	3N	75	W S	B	0.0220	C 1	12/31/1979		09/07/1971		44444.00000	79 252			04/27/88
5353	1847	WELCHS WELL	2	22	NORTH INLET GRAND L	25 NWSENE	5	3N	75	W S	B	0.0220	C 1	12/31/1979		09/10/1971		44447.00000	79 209			04/27/88
5352	1846	TASSETT WELL	2	22	NORTH INLET GRAND L	25 SENE	5	3N	75	W S	0	0.0330	C 1	12/31/1979		04/30/1976		46141.00000	79 112			04/27/88
5278	1854	CORBINS WELL	2	22	NORTH INLET GRAND L	25 SWNWNW	5	3N	75	W S	0	0.0176	C 1	12/31/1980		07/29/1976		46231.00000	80 58			04/27/88
1185	2190	ERMALEES DITCH NO 1	1	22	NORTH INLET GRAND L	25 SWNE	5	3N	75	W S	1 3 8	0.0330	C 2	12/31/1977	12/31/1976	04/01/1963		46386.41363	W 3506			04/27/88
5347	1842	SPEES WELL	2	22	NORTH INLET GRAND L	25 SENESE	5	3N	75	W S	0	0.0110	C 1	12/31/1979		05/01/1978		46872.00000	79 236			04/27/88
5358	1850	ZACHMANS WELL	2	22	NORTH INLET GRAND L	25 SWSWNE	5	3N	75	W S	0	0.0330	C 1	12/31/1979		05/22/1979		47256.00000	79 218			04/27/88
822	8	ROHRACKER NO 1 DITCH	1	23	ROHRACKER (RHROCHER)	25 NESENW	22	1N	77	W S	1	0.5000	C 1	08/11/1906		06/20/1885	39	13047.00000	112			01/01/86
564	12	BYERS NO 3 DITCH	1	24	NIMBAUGH CREEK	25 SWSWSE	2	1N	78	W S	1	0.2500	C 1	08/11/1906		06/15/1886	43	13315.00000	112			01/01/86
618	23	ELK CREEK DITCH	1	25	ELK CREEK	25 NESWNW	29	1S	75	W S	1	0.3750	C 1	08/11/1906		06/01/1887	50	13666.00000	112			01/01/86
619	150	ELK CREEK DITCH NO 2	1	25	ELK CREEK	25 SESWNE	30	1S	75	W S	1	1.0000	C 25	08/11/1906		07/23/1894	102	16275.00000	83 362	A	7086	04/15/88
619	2721	ELK CREEK DITCH NO 2	1	25	ELK CREEK	25 SESWNE	30	1S	75	W S	1 A	1.0000	C 24	08/11/1906		07/23/1894	102	16275.00000	83 362	A		04/28/88
619	2722	ELK CREEK DITCH NO 2	1	25	ELK CREEK	25 SESWNE	30	1S	75	W S	1	1.0000	C 1	08/11/1906		07/23/1894	102	16275.00000	83 362	A	7086	04/15/88
619	2723	ELK CREEK DITCH NO 2	1	25	ELK CREEK	25 SWNWNW	6	2S	75	W S	1	5.5000	C 1	08/11/1906		07/31/1903	130	19174.00000	112			01/01/86
504	34	ALGER DITCH	1	25	ELK CREEK	25 SWNESW	31	1S	75	W S	1	1.0000	C 1	08/11/1906		09/19/1903	137	19619.00000	112			01/01/86
635	42	FOWLER DITCH	1	25	ELK CREEK	25 NENWSE	18	4N	77	W S	0	1.0000	C 2	12/31/1976	12/31/1977	05/12/1978		46883.00000	W 3772			01/01/86
2013	1916	MIN FLOW ELK CREEK		0 25	ELK CREEK	25 NENWSE	18	4N	77	W S	0	1.0000	C 2	12/31/1976	12/31/1977	05/12/1978		47847.32586	81 409			01/01/86
1172	2090	MATHEW SHERIFF D NO 1	1	26	MCQUEARY CREEK	25 SWNESW	36	2N	77	W S	1	1.0000	C 2	12/31/1981	12/31/1980	12/31/1939		47847.32586	81 409			01/01/86
737	19	HURD CREEK DITCH		27	HURD CREEK	25 SENENW	15	1S	75	W S	1	8.0000	C 1	08/11/1906		05/01/1888	55	1400[illegible].00000	112			01/01/86
1231	2227	HAMILTON-CARLIN CF EXTEN		27	HURD CREEK	25 SESESW	15	1N	75	W S	2 B	25.0000	C 37	11/05/1937	07/09/1934	07/02/1932	44	3007[illegible].30121	65		1231	01/01/86
1381	1120	HURD CREEK RANCH PL NO 1	4	28	HURD CREEK	25 SWSESE	30	1N	75	W S	1 B5	0.0030	C 1	12/31/1976	12/31/1969	08/08/1967		45829.25554	A 55			01/01/86
1092	1119	HURD CREEK RANCH PL NO 2	4	28	HURD CREEK	25 SESESE	22	1N	75	W S	1 B5	0.0021	C 2	12/31/1976	12/31/1969	08/08/1967		47461.46962	80 199			01/01/86
5234	1904	MARY JANE SPRING	4	28	HURD CREEK	25 NWSENE	33	1N	72	W S	0	0.0220	C 25	12/31/1980	12/31/1979	07/31/1975		47461.46962	80 199			01/01/86
945	1631	VULGAMORE DITCH NO 1	1	29	CROOKED CREEK	25 NENENW	12	1S	76	W S	1	4.0000	C 1	08/11/1906		05/06/1888	68	14096.00000	112			01/01/86
594	122	CROOKED CREEK DITCH NO 1	1	29	CROOKED CREEK	25 NESENW	22	1S	76	W S	1	8.0000	C 1	08/11/1906		03/15/1889	69	14380.00000	112			01/01/86
594	2426	CROOKED CREEK DITCH NO 1	1	29	CROOKED CREEK	25 NESENW	22	1S	76	W S	1	0.0580	C 14	06/11/1906		05/15/1889	69	14380.00000	84 347	A		04/28/88
594	2439	CROOKED CREEK DITCH NO 1	1	29	CROOKED CREEK	25 NESENW	22	1S	76	W S	1	0.6500	C 15	08/11/1906		05/15/1889	69	14380.00000	84 347	A	7092	04/27/88
594	158	CROOKED CREEK DITCH NO 1	1	29	CROOKED CREEK	25 NESENW	22	1S	76	W S	1	7.2500	C 1	08/11/1906		05/08/1896	107	16930.00000	112			01/01/86
894	54	SOUTH SIDE DITCH	1	29	CROOKED CREEK	25 SWSWNW	22	1S	76	W S	1	1.0000	C 1	08/11/1906		05/10/1902	126	19122.00000	112			01/01/86
882	53	SHEEP MOUNTAIN DITCH	1	29	CROOKED CREEK	25 NWNENE	21	1S	76	W S	1	3.7500	C 1	08/11/1906		06/04/1902	127	19147.00000	112			01/01/86
857	318	RICH DITCH	1	29	CROOKED CREEK	25 NESWNE	14	1S	76	W S	1	2.7500	C 2	08/03/1911	08/11/1906	05/05/1892	197	20676.15466	183			01/01/86
857	2289	RICH DITCH	1	29	CROOKED CREEK	25 NESWNE	14	1S	76	W S	1	0.0100	C 25	08/03/1911	08/11/1906	05/05/1892	197	20676.15466	80 299	A	7102	04/28/88
857	2298	RICH DITCH	1	29	CROOKED CREEK	25 NESWNE	14	1S	76	W S	1	0.1100	C 25	08/03/1911	08/11/1906	05/05/1892	197	20676.15466	80 298	A	7102	04/26/88
857	2299	RICH DITCH	1	29	CROOKED CREEK	25 NESWNE	14	1S	76	W S	1	0.2900	C 25	08/03/1911	08/11/1906	05/05/1892	197	20676.15466	80 298	A	7102	04/26/88
857	2745	RICH DITCH	1	29	CROOKED CREEK	25 NESWNE	14	1S	76	W S	1	0.4900	C 25	08/03/1911	08/11/1906	05/05/1892	197	20676.15466	80 299	A	7103	04/26/88
857	2746	RICH DITCH	1	29	CROOKED CREEK	25 NESWNE	14	1S	76	W S	1 78 A	0.4900	C 24	08/03/1911	08/11/1906	05/05/1892	197	20676.15466	80 299	A		04/28/88
857	2753	RICH DITCH	1	29	CROOKED CREEK	25 NESWNE	14	1S	76	W S	A	0.2900	C 24	08/03/1911	08/11/1906	05/05/1892	197	20676.15466	80 298	F		04/28/88
759	520	JUNCTION DITCH	1	29	CROOKED CREEK	25 NWNENW	1	1S	76	W S	1	0.7500	C 2	08/11/1917	03/18/1915	06/01/1886	314	23817.13301	304			04/26/88
759	2764	JUNCTION DITCH	1	29	CROOKED CREEK	25 NWNENW	1	1S	76	W S	1	0.1500	C 25	08/11/1917	03/18/1915	06/01/1886	314	23817.13301	79 6	A	7098	04/26/88
759	2765	JUNCTION DITCH	1	29	CROOKED CREEK	25 NWNENW	1	1S	76	W S	A	0.1500	C 24	08/11/1917	03/18/1915	06/01/1886	314	23817.13301	79 6	A		04/28/88
5138	1260	PILCHER WELL NO 2	2	29	CROOKED CREEK	25 SESWNW	11	1S	76	W S	1 789	0.0396	C 1	12/31/1972		12/31/1919		25566.00000	W 1051			01/01/86
594	809	CROOKED CREEK DITCH NO 1	1	29	CROOKED CREEK	25 NESENW	22	1S	76	W S	1 89	10.0000	C 2	01/14/1953	11/07/1952	06/01/1953	535	37772.00000	1175			04/15/88
5139	1261	PILCHER WELL NO 1	2	29	CROOKED CREEK	25 SENESW	11	1S	76	W S	1 789	0.0330	C 1	12/31/1972		08/12/1955		38574.00000	W 1052			01/01/86
1002	850	MEADOW SPGS CR DITCH	1	29	CROOKED CREEK	25 NWSWSW	11	1S	76	W S	1	0.5000	C 2	05/30/1972	01/14/1957	06/01/1919	2	39095.25353	1430			01/01/86
4021	851	MEADOW SPGS RESERVOIR	3	29	CROOKED CREEK	25 NENESW	11	1S	76	W S	1	0.7000	A 2	05/30/1972	01/14/1957	02/14/1960		40221.00000	1430			01/01/86
759	1720	JUNCTION DITCH	1	29	CROOKED CREEK	25 NWNENW	1	1S	76	W S	1 2345	2.0000	C 2	05/31/1972	06/06/1969	06/30/1964		43621.41819	1768			01/01/86
4010	1723	MURPHY RESERVOIR	3	29	CROOKED CREEK	25 SWNWSE	20	1S	76	W S	1 89	142.7300	A 23	05/31/1972	06/06/1969	09/02/1966		43621.42613	1768			01/01/86
4010	2614	MURPHY RESERVOIR	3	29	CROOKED CREEK	25 SWNWSE	20	1S	76	W S	1 89	142.7300	A 236	05/31/1972	06/06/1969	09/02/1966		43621.42613	84 218			01/01/86
4010	1729	MURPHY RESERVOIR	3	29	CROOKED CREEK	25 SWNWSE	20	1S	76	W S	1 8	95.2000	A 23	05/31/1972	06/06/1969	09/02/1968		43621.43344	1768			01/01/86
4010	2615	MURPHY RESERVOIR	3	29	CROOKED CREEK	25 SWNWSE	20	1S	76	W S	1 8	95.2000	A 236	05/31/1972	06/06/1969	09/02/1968		43621.43344	84 218			01/01/86
5207	1239	WAGNER WELL	2	29	CROOKED CREEK	25 NWSWSE	11	1S	76	W S	8	0.0334	C 1	12/31/1972		08/08/1969		43684.00000	W 996			01/01/86
5186	1252	SWISHER WELL NO 1	2	29	CROOKED CREEK	25 SENESW	11	1S	76	W S	8	0.0330	C 1	12/31/1972		06/12/1971		44362.00000	W 1018			01/01/86
5305	1838	JOHN,NILA PARRINGTON W L	2	29	CROOKED CREEK	25 NENESE	22	1S	76	W S	0	0.0330	C 2	12/31/1979	12/31/1978	08/08/1975		47116.45875	79 263			01/01/86
5287	2376	MCKINNEY SPRING	4	29	CROOKED CREEK	25 NWNWNW	24	1S	76	W S	B	0.0330	C 236	12/31/1979	12/31/1978	08/25/1979		47353.00000	79 222			03/30/87



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ID	SEQ NO	NAME OF STRUCTURE	STRUCTURE TYPE	WD STR NO	STREAM NAME	TYP	SEC	TWP	RNG	PM	USE CODE	DECREED AMOUNT	U/M	ADJ TYP	ADJ DATE	PREV ADJ DATE	APPROP DATE	DIS NO	PRIOR NO	ADMIN NUMBER	CASE NO	ALTER ID	LAST UPDATE
941	2579	VAIL IRR SYS HGT NO 2	1	40	STRAWBERRY CREEK	25	NWSENW	1	2N	75W	S 1	40.0000	C 236		08/03/1911	08/11/1906	09/22/1909	261		21814.00000	84 218		01/01/86
859	445	ROCKY RIDGE DITCH	1	40	STRAWBERRY CREEK	25	SWNESE	35	2N	76W	S 1	4.0000	C 2		03/18/1915	03/20/1914	11/09/1909	288		23454.21862	259		04/15/86
4031	671	STRAWBERRY LAKE RES	3	40	STRAWBERRY CREEK	25	NWNWNE	27	2N	75W	S 1	7000.0000	A 23		05/30/1972	01/14/1957	03/26/1963			41357.00000	1430		01/01/86
4031	2618	STRAWBERRY LAKE RES	3	40	STRAWBERRY CREEK	25	NWNWNE	27	2N	75W	S 1	7000.0000	A 236		05/30/1972	01/14/1957	03/26/1963			41357.00000	84 218		01/01/86
748	144	JONES HIGH LINE DITCH	1	41	LITTLE BEAVER	25	SENWNE	19	1N	77W	S 1	5.0000	C 1		08/11/1906		05/29/1891	90		15124.00000	112		01/01/86
854	41	REINHARDT NO 2 DITCH	1	43	ROCKWELL CREEK	25	SWSENW	1	1N	77W	S 1	1.2500	C 1		08/11/1906		08/24/1903	136		19593.00000	112		01/01/86
855	46	REINHARDT NO 1 DITCH	1	43	ROCKWELL CREEK	25	SWNWSW	1	1N	77W	S 1	1.2500	C 1		08/11/1906		09/15/1904	144		19981.00000	112		01/01/86
855	617	REINHARDT NO 3 DITCH	1	43	ROCKWELL CREEK	25	NESENW	1	1N	77W	S 1	3.5000	C 2		11/05/1937	07/09/1934	03/01/1926	406		30870.27818	657		01/01/86
899	148	SPRING BRANCH DITCH	1	44	SPRING BRANCH	25	NESWNW	23	1S	76W	S 1	0.8750	C 1		06/11/1906		07/20/1894	101		16272.00000	112		01/01/86
900	164	SPRING BRANCH NO 2 DITCH	1	44	SPRING BRANCH	25	SWNWNE	27	1S	76W	S 1	1.0000	C 1		08/11/1906		10/15/1898	111		17820.00000	112		01/01/86
5188	1462	TALLY HO RANCH WELL NO 1	2	44	SPRING BRANCH	25	SWSW	23	1S	76W	S	89	0.0330	C 1		12/31/1973		07/01/1972			44742.00000	W 2162		01/01/86
1143	1463	TALLY HO SPRING NO 1	4	44	SPRING BRANCH	25	SWNW	23	1S	76W	S	89	0.0290	C 2		12/31/1973	12/31/1972	06/30/1973			45106.00000	W 2163		01/01/86
1144	1464	TALLY HO SPRING NO 2	4	44	SPRING BRANCH	25	NWNW	23	1S	76W	S	89	0.0220	C 3		12/31/1973	12/31/1972	06/30/1973			45106.00000	W 2164		01/01/86
986	1636	HOCKETT RESERVOIR	3	46	FRY CREEK	25	SWSWNW	7	1S	79W	S 1		17.6400	A 3	08/03/1911	08/11/1906	03/05/1907	24		20881.60000	182		01/01/86
986	627	WILSON DITCH	1	46	FRY CREEK	25	SWNWNW	7	1S	79W	S 1		0.8900	C 2		07/12/1919	08/11/1917	04/01/1918	349		24294.13984	134		01/01/86
704	1596	HARRISON DITCH	1	47	TONAHUTU CREEK	25	SENWNW	31	4N	75W	S	L	4.4600	C 1		07/21/1911		07/15/1893	99	K	15902.00000	184	A 7085	04/17/88
3645	1609	CAIRNS NO 2 RESERVOIR	2	47	TONAHUTU CREEK	25	NENENW	32	4N	75W	S	J	139.6000	A 13		07/21/1911		12/08/1904	RES	2	20065.00000	184		04/27/88
3649	2590	CAIRNS NO 2 RESERVOIR	2	47	TONAHUTU CREEK	25	NENENW	32	4N	75W	S	J	139.6000	A 136		07/21/1911		12/08/1904	RES	2	20065.00000	84 218		04/27/88
704	217	HARRISON DITCH		47	TONAHUTU CREEK	25	SENWNW	31	4N	75W	S	L	4.4600	C 2		08/03/1911	08/11/1906	07/15/1893	99	K	20431.15901	184	A 7085	04/27/88
704	1502	HARRISON DITCH		47	TONAHUTU CREEK	25	SENWNW	31	4N	75W	S	L	1.1150	C 24		08/03/1911	08/11/1906	07/15/1893	99	K	20431.15901	184	A 7085	04/27/88
707	604	BOB HARRISON DITCH		47	TONAHUTU CREEK	25	SENENE	36	4N	76W	S 1		1.2500	C 22		07/10/1940	03/04/1940	04/15/1922	420		22221.24421	229		05/04/87
707	1642	BOB HARRISON DITCH		47	TONAHUTU CREEK	25	SENENE	36	4N	76W	S 1		0.6250	C 22		07/10/1940	03/04/1940	04/15/1922	420		22221.24421	229		05/04/87
707	2924	BOB HARRISON DITCH		47	TONAHUTU CREEK	25	SENENE	36	4N	76W	S 1		1.2500	C 236		07/10/1940	03/04/1940	04/15/1922	420		22221.24421	84 218		05/04/87
707	2925	BOB HARRISON DITCH		47	TONAHUTU CREEK	25	SENENE	36	4N	76W	S 1		0.6250	C 236		07/10/1940	03/04/1940	04/15/1922	420		22221.24421	84 218		05/04/87
679	186	GRAND LAKE PIPELINE		47	TONAHUTU CREEK	25	SESESW	30	4N	75W	S 2	E	6.0000	C 23		11/07/1952	10/01/1943	03/15/1945	50		34772.00000	814		10/21/86
679	1643	GRAND LAKE PIPELINE		47	TONAHUTU CREEK	25	SESESW	30	4N	75W	S 2	E	6.0000	C 28		11/07/1952	10/01/1943	03/15/1945	50		34772.00000	814		10/21/86
679	1644	GRAND LAKE PIPELINE		47	TONAHUTU CREEK	25	SESESW	30	4N	75W	S 2	E	6.0000	C 25		11/07/1952	10/01/1943	03/15/1945	50		34772.00000	79 288		01/01/86
5257	1857	GRAND LAKE WELL	2	47	TONAHUTU CREEK	25	NWSENW	5	1N	75W	S 2	E	6.0000	C 24		11/07/1952	10/01/1943	03/15/1945			34772.00000	79 287		05/04/87
5257	1858	GRAND LAKE WELL	2	47	TONAHUTU CREEK	25	NWSENW	5	1N	75W	S	1234	0.5500	C 23		12/31/1979	12/31/1978	03/15/1979			47190.00000	79 288		05/04/87
5257	2111	GRAND LAKE WELL	2	47	TONAHUTU CREEK	25	NWSENW	5	1N	75W	S	1 34 78	0.5500	C 28		12/31/1979	12/31/1978	03/15/1979			47190.00000	E2 111		05/04/87
528	249	BETHEL DITCH		49	MEADOW CREEK	25	NWNWSE	13	1N	75W	S 1		76.0000	C 23		08/03/1911	08/11/1906	06/15/1905	240		20676.20254	163		01/01/86
528	2522	BETHEL DITCH		49	MEADOW CREEK	25	NWNWSE	13	1N	75W	S 1		76.0000	C 236		08/03/1911	08/11/1906	06/15/1905	240		20676.20254	84 216		01/01/86
1231	244	VAIL IRR SYS HGT NO 1	1	49	MEADOW CREEK	25	SESWSE	16	1N	75W	S 1		76.2600	C 278		08/03/1911	08/11/1906	09/22/1909	261		21814.00000	259	943	01/01/86
1231	2130	VAIL IRR SYS HGT NO 1	1	49	MEADOW CREEK	25	SENWSE	16	1N	75W	S 1		125.0000	C 237		08/03/1911	08/11/1906	09/22/1909	261		21814.00000	183	941	01/01/86
944	1616	VAVER FLUME	0	49	MEADOW CREEK	25	SESWNW	13	1N	75W	S	34	51.0000	C 13		07/21/1911		05/31/1910			22065.00000	184		01/01/86
944	1667	VAVER FLUME	0	49	MEADOW CREEK	25	SESWNW	13	1N	75W	S	34	51.0000	C 18		07/21/1911		05/31/1910			22065.00000	267		04/16/88
944	2580	VAVER FLUME	0	49	MEADOW CREEK	25	SESWNW	13	1N	75W	S	34	51.0000	C 16		07/21/1911		05/31/1910			22065.00000	84 218		04/26/88
3708	1663	VAVER RESERVOIR NO 2	3	49	MEADOW CREEK	25	SENWSW	14	1N	75W	S 1	34	125.0000	A 2		03/20/1914	08/03/1911	06/01/1910			22494.22066	267		01/01/86
3708	2612	VAVER RESERVOIR NO 2	3	49	MEADOW CREEK	25	SENWSW	14	1N	75W	S 1	34	125.0000	A 26		03/20/1914	08/03/1911	06/01/1910			22494.22066	84 218		01/01/86
3707	1662	VAVER RESERVOIR NO 1	3	49	MEADOW CREEK	25	NENWSE	13	1N	75W	S	34	30.0000	A 2		03/20/1914	08/03/1911	07/15/1912			22841.00000	267		01/01/86
3707	2611	VAVER RESERVOIR NO 1	3	49	MEADOW CREEK	25	NENWSE	13	1N	75W	S	34	30.0000	A 26		03/20/1914	08/03/1911	07/15/1912			22841.00000	84 218		01/01/86
1233	1668	VAVER FLUME EXT	0	49	MEADOW CREEK	25	SENWSE	13	1N	75W	S	34	81.0000	C 2		03/20/1914	08/03/1911	07/15/1913			23206.00000	267		01/01/86
1233	2588	VAVER FLUME EXT	0	49	MEADOW CREEK	25	SENWSE	13	1N	75W	S	34	81.0000	C 26		03/20/1914	08/03/1911	07/15/1913			23206.00000	84 218		01/01/86
1250	2236	HAMILTON-CABIN CR EXTEN	1	49	MEADOW CREEK	25	NWNWSW	15	1N	75W	S	12 8	25.0000	C 26		11/05/1937	07/09/1934	07/02/1932	411		30870.30133	W 750		04/17/88
1250	2237	HAMILTON-CABIN CR EXTEN	1	49	MEADOW CREEK	25	NWNWSW	15	1N	75W	S	12 8	25.0000	C 23		11/05/1937	07/09/1934	07/02/1932	411		30870.30133	657		01/01/86
3686	591	MEADOW CREEK RESERVOIR	3	49	MEADOW CREEK	25	NWNENE	14	1N	75W	S	12 8	5100.0000	A 23		11/05/1937	07/09/1934	07/02/1932	4	413	30870.30133	657		01/01/86
3686	1828	MEADOW CREEK RESERVOIR	3	49	MEADOW CREEK	25	NWNENE	14	1N	75W	S	12 8 0	5100.0000	A 28		11/05/1937	07/09/1934	07/02/1932		413	30870.30133	28 750		01/01/86
3686	703	MEADOW CREEK RESERVOIR	3	49	MEADOW CREEK	25	NWNENE	14	1N	75W	S 1	8	294.0000	A 23		11/07/1952	10/01/1943	05/29/1923		472	34241.26811	814		04/12/88
996	836	DIVIDE DITCH NO 1	1	49	MEADOW CREEK	25	NWSENW	19	1N	75W	S 1		75.0000	C 23		05/30/1972	01/14/1957	03/26/1963			41357.00000	1430		04/16/88
996	2169	DIVIDE DITCH NO 1	1	49	MEADOW CREEK	25	NWSENW	19	1N	75W	S 1		75.0000	C 236		05/30/1972	01/14/1957	03/26/1963			41357.00000	W 2975		04/16/88
4015	841	HANKISON RED MTN RES	3	49	MEADOW CREEK	25	SWNWNW	3	1N	76W	S 1	6 89	116.4000	A 23		05/30/1972	01/14/1957	10/16/1963			41561.00000	1430		04/12/88
2643	2184	MIN LEVEL COLUMBINE LAKE	3	49	MEADOW CREEK	25	SWNWSE	29	1N	74W	S	0	10.0000	A 2		12/31/1976	12/31/1975	08/17/1976			46097.00000	W 3238		01/01/86
612	50	EBY NO 1 DITCH	1	50	REEDER CREEK	25	SWSENE	12	1S	80W	S 1		0.5000	C 1		08/11/1906		09/01/1905	145		20332.00000	112		01/01/86
613	49	EBY NO 2 DITCH	1	50	REEDER CREEK	25	SWSENE	12	1S	80W	S 1		2.2000	C 1		08/11/1906		09/01/1905	146		20332.00000	112		01/01/86

APPLICATION BY THE GRAND LAKE METROPOLITAN RECREATION DISTRICT

TO CHANGE A POINT OF DIVERSION AND DIVERT 0.625 CFS FROM

TONAHUTU CREEK VIA HARBISON DITCH TO THE GOLF COURSE OUTSIDE

ROCKY MOUNTAIN NATIONAL PARK

Issue:

The Grand Lake Metropolitan Recreation District (GLMRD) submitted an application to the Colorado Water Court for a change in the point of diversion for 0.625 cfs of water from the west bank on the North Inlet of Grand Lake to Harbison Ditch on Tonahutu Creek located within Rocky Mountain National Park (ROMO). The place of use would also be changed from irrigating hay meadows located in the SE4 NE4 and the NE4 SE4 of Section 6, Township 3 North, Range 75 West of the 6th P.M., Grand County, Colorado to the applicant's public golf course. Park management wants to know what options are available if they wish to prevent the GLMRD from diverting the 0.625 cfs through Harbison Ditch.

Background:

The GLMRD constructed a 9-hole public golf course in the early 1960's approximately 1/4 mile from the western boundary of ROMO (see Figure 1.). The project had the support of and was actively encouraged by park management. To assist the GLMRD in its operation of the golf course, ROMO leased 1.5 cfs of Federal appropriative water rights on Tonahutu Creek through Harbison Ditch by means of a special-use permit effective July 1, 1968.

On November 26, 1975 the GLMRD asked to purchase 1.0 cfs from the NPS because they wanted to add nine additional holes to the golf course. They were concerned that the special use permit allowing them to lease 1.5 cfs via Harbison ditch could be revoked at any time. The superintendent, in a letter dated December 9, 1976 stated the NPS was supportive of the golf course and in fact, was instrumental in getting the land set aside for a golf course and in leasing water to the GLMRD for the golf course from Tonahutu Creek. He assured the GLMRD that the NPS had no need for the 1.5 cfs for the foreseeable future. However, the superintendent went on.explain that agency policy would not allow him to extend the special-use permit beyond a 5 year limit. In addition, the request to purchase 1.0 cfs of water was denied.

In 1962, the GLMRD obtained an interest in 0.625 cfs in Cairns No. 3 Ditch with a headgate located on the North Inlet to Grand Lake. The GLMRD asked the NPS in 1976 if it would have any objections if they transferred the point of diversion for their water right for 0.625 cfs from the North Inlet of Grand Lake to the headgate of Harbison Ditch on Tonahutu Creek. The water would be used to irrigate an additional 9 holes on the golf course. The park responded in a letter dated September 10, 1976 stating the park had no basis to object to the change in the point of diversion because it would not result in any

00-00-0000: map of present and historic diversions affecting rocky mountain national park

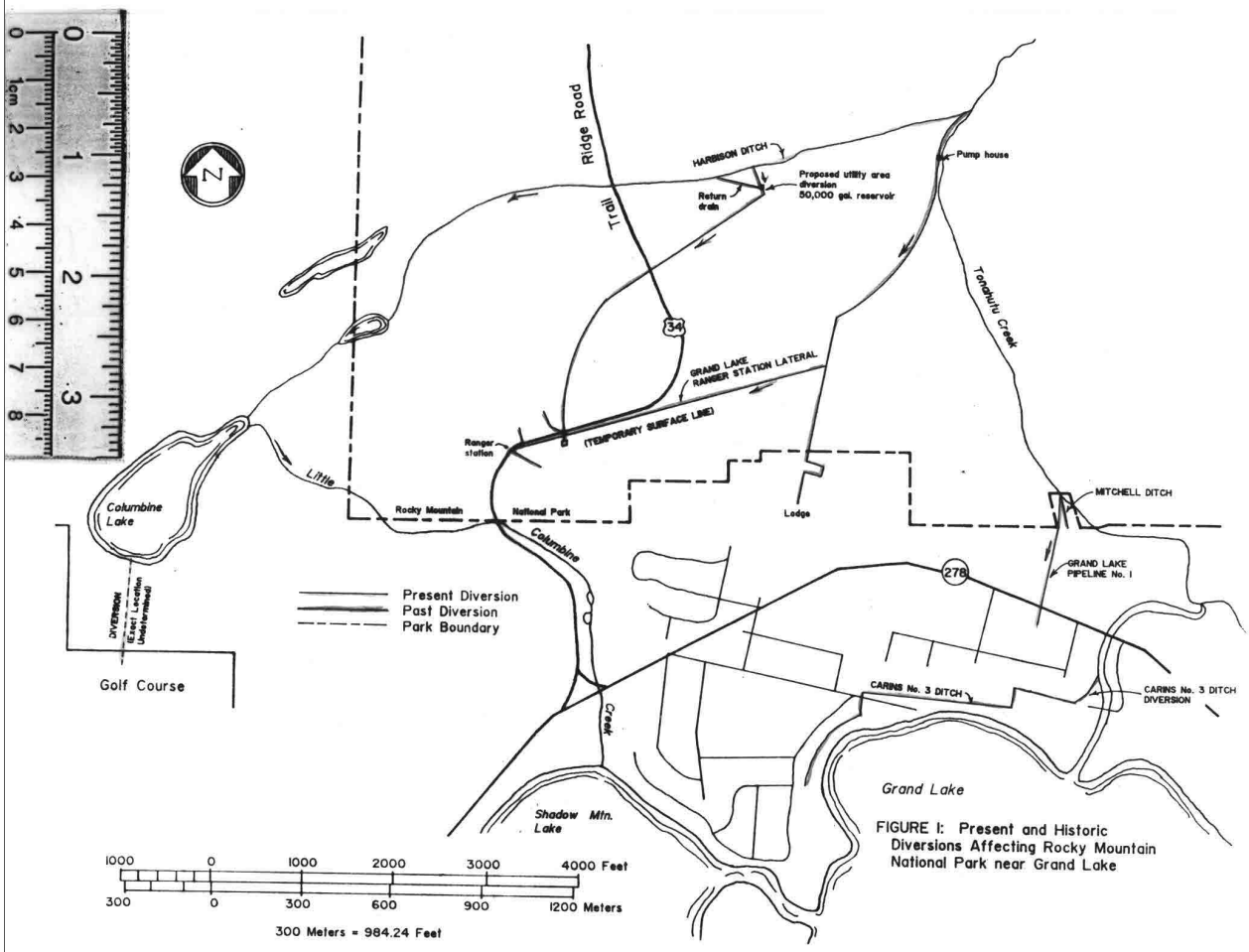


FIGURE I: Present and Historic Diversions Affecting Rocky Mountain National Park near Grand Lake

adverse effect on water rights owned by the NPS. The only concern expressed by the park was the carrying capacity of Harbison Ditch which overflowed at several points when flow was excessive. The park offered to meet with the GLMRD to discuss how repairs could be made to the ditch so it could carry a total of 5.0 cfs, including the additional 0.625 cfs. Testing of the ditch to determine its' carrying capacity was scheduled for the following spring but was never completed.

In 1976, Howard Breckon, representing Columbine Lake Water and Sanitation District (CLWSD) as part owner of the Harbison Ditch, agreed to let the GLMRD use the ditch and Columbine Lake to transport water to a point near the golf course. In addition, Breckon gave the GLMRD a permanent easement so they could pump water from Columbine Lake and transport it to the golf course. On January 31, 1984, ROMO renewed the GLMRD's special-use permit for an additional five years. On August 8, 1986, the GLMRD again asked the NPS to extend the special use permit for the lease of 1.5 cfs from 5 years to a longer period of time. The NPS denied this request in October, 1986.

In July, 1986, the GLMRD applied to the Colorado Water Court for a conditional water right of 1.5 cfs to divert water from Tonahutu Creek through Harbison Ditch. According to the files, the NPS did not object to the GLMRD application because the NPS could not demonstrate injury having leased water for the last 20 years. The NPS would have no basis to claim injury to its water rights and, therefore, the court could not be expected to treat the protest as more than frivolous.

Water Rights and Uses Associated With Harbison Ditch:

Water is currently diverted through Harbison Ditch by three water users; the NPS (1.5 cfs leased to GLMRD) the GLMRD (1.5 cfs conditional and 0.625 cfs transferred from Cairns #3 ditch) and the CLWSD (1.115 for instream flow and 1.695 cfs for fish propagation). According to the records, the ditch is owned jointly by the NPS and the CLWSD. Capacity of the ditch is in question but estimates range between 2.6 and 4.0 cfs.

The earliest adjudication of Tonahutu Creek, 1911, listed two water rights attached to Harbison Ditch. The original water right (#1), perfected by Roy Adams, was for the use of 4.46 cfs for the propagation of fish with a priority date of 1894. The full allotment of this right could be used only from November 1 to April 15. During the irrigation season (April 15 to November 1) owners of water right #1 could use only that portion of the second right (#199) not used for irrigation. Water right #199 is an irrigation right for 4.46 cfs during the irrigation season, with a priority date of 1893.

The NPS purchased a portion of each of these water rights through deeds #49, #50 and #124. Thus, the NPS holds rights to 3.345 cfs of water right #199 for irrigation (April 15 to November 1) and 2.765 of water right #1 for year round use (see Table 1.). The NPS has allowed its share of water, other than the 1.5 cfs leased to the GLMRD, to remain in Tonahutu Creek for instream flow purposes. The remaining portions of water rights #199 (1.115 cfs) and #1 (1.695 cfs) are owned by the CLWSD and diverted through Harbison Ditch.

00-00-0000: table regarding water rights on tonahutu creek

Table 1. Water Rights on Tonahutu Creek
Associated with Harbison Ditch

	Owner	Amount (cfs)	Place of Use	Period of Use	Purpose	Priority Date
1.	GLMRD	0.625	Golf Course	04/15-11/01	Irrigation	09/01/1885* Cairns #3
2.	USA	2.765	Tonahutu Creek	11/01-04/15	Instream	07/15/1893
3.	CLWSD	1.695	Columbine Lake	11/01-04/15	Fish Propa-gation	07/15/1893
4.	USA	3.345	Tonahutu Creek	04/15-11/01	Irrigation (Instream)	11/01/1894
5.	CLWSD	1.115	Little Columbine Creek	04/15-11/01	Instream	11/01/1894
6.	GLMRD	1.5	Golf Course	04/15-11/01	Irrigation	Leased From USA, See #4 Above
7.	GLMRD	1.50	Golf Course	04/15-11/01	Irrigation	07/13/1986 Conditional

* While most senior by date, this water right was transferred to Harbison Ditch from the North Inlet (Cairns Ditch #3) on the condition there would be no injury to junior water right holders.

In 1975 the CLWSD made application to the Water Courts to change the use of its 1.115 cfs of water from irrigation to instream flow in Little Columbine Creek. In Civil Action 2502, the Water Court granted the request and ordered that the applicant (CLWSD) "permanently terminate and abandon the irrigation use of 1.115 cfs of water from Harbison Ditch and will apply the 1.115 cfs adjudicated on August 3, 1911 to the maintenance of Columbine Creek to offset depletion caused by the municipal, recreation and irrigation uses..."

In 1972 the USA claimed Federal reserved water rights "For such purposes for which Rocky Mountain National Park was created ..." Also, "..the main emphasis, with regard to the use of water in the Park is to maintain natural flows and lake levels with as little man made disturbance as possible". This includes unquantified reserved water rights for Tonahutu Creek above and below Harbison ditch. It is noteworthy that Tonahutu Creek flows across 1/2 mile of land below Harbison Ditch that is within ROMO and has always been part of the Public Domain. This is of significance because the NPS claims Federal reserved water rights in cases involving land having a continuous chain of title of federal ownership. And, the water court having recognized Federal reserved water rights in ROMO, instructed the NPS to quantify those rights.

Findings:

1. The NPS has been a supporter of the golf course and was instrumental in assisting the GLMRD in obtaining land for the project.

2. According to the West Unit Manager (ROMO), the park wants to maintain water in Harbison Ditch for aesthetic purposes.

3. The GLMRD has indicated it does not want to enlarge Harbison Ditch. Because the ditch is in the park, the NPS should have the authority to control maintenance activities on the ditch. However, the CLWSD also has a proprietary interest in the ditch and has given GLMRD permission to use the ditch.

4. The current capacity of Harbison Ditch is about 3 cfs but estimates range from 2.6 to 4.0 cfs. If repairs are made to portions of the ditch, it may be possible to carry 3.24 cfs (1.5 cfs of water leased to GLMRD, 0.625 of GLMRD water transferred from Cairns No. 3 Ditch and 1.115 cfs of CLWSD water) during the irrigation season.

5. Although the USA was successful in 1987 in changing its water rights from irrigation use to instream flow for Onahu Creek (Fish Creek) in ROMO, the Department of Justice advises this approach can no longer be taken because the Colorado Legislature changed the State's water laws identifying the Colorado Water Conservation Board as the only entity authorized to hold water rights for instream flow purposes.

6. The GLMRD received a conditional water right from the Water Court, District No. 5 on February 16, 1989 for 1.5 cfs for irrigation from Tonahutu Creek to be diverted through Harbison Ditch. The conditional water right was assigned a priority date of July 13, 1986.

7. During periods of low flow it is possible that the portion of Tonahutu Creek below Harbison Ditch may be dewatered during the irrigation season if the GLMRD and CLWSD divert their total entitlement of 3.24 cfs.

Options:

1. The opportunity to file a protest on the GLMRD's application for a change in the point of diversion has passed; however it would have been futile to file such a protest since the USA does not have any appropriative water rights in Tonahutu Creek below Harbison Ditch that could be injured. It would also be very difficult to convince the Water Courts to deny the application based on injury to unquantified Federal reserved water rights in light of the fact that the NPS has been leasing 1.5 cfs of its water to the GLMRD for the last 20 years. Further, the Department of Justice would not file such a protest without a supportable claim of injury from any other water right holder.

2. The park may wish to inform the GLMRD that the NPS will not protest the application for a change in point of diversion to pass an additional 0.625 cfs through Harbison Ditch. Assuming the park wishes to retain water in Harbison Ditch for aesthetic purposes, the park could then take this opportunity to work with the CLWSD and the GLMRD to repair the ditch so that it can convey an amount of water not to exceed 3.24 cfs. The parties should be willing to sign an agreement to this effect limiting the capacity of the ditch and conducting repairs at no expenses to the USA and under the supervision of the NPS. This approach will solidify NPS control over maintenance and overall capacity of the ditch and thereby ensure that additional quantities of water will not be diverted from Tonahutu Creek via Harbison Ditch.

3. The park may wish to terminate the special-use permit allowing the GLMRD to divert 1.5 cfs from Tonahutu Creek to the golf course. By this action the GLMRD conditional water right claim of 1.5 cfs with a priority date of 1986 would then move up in priority. However, the unquantified NPS Federal reserved right for the segment of Tonahutu Creek below the Harbison Ditch carries a priority date of 1915 and could be exercised so that Tonahutu Creek is not dewatered.

   By not renewing the special-use permit, the park may be viewed by the local community as being unsupportive of recreation programs sponsored by the GLMRD. Also, the park's control over the maintenance and ultimate capacity of Harbison Ditch may be diminished since GLMRD would be conveying their water through the ditch with the permission of the CLWSD and not NPS water under stipulations imposed in a special-use permit.

DRAFT

LDReed:slw 10/15/86

Mr. Dick Himes, President
Grand Lake Metropolitan Recreation District
P.O. Box 590
Grand Lake, Colorado 80447

Dear Mr. Himes:

We received a response from our Regional Office about your desire to extend longer than 5 years Special Use Permit SP1529-84-0003. Their response was to deny extending the permit. Apparently, we have some new servicewide guidelines that limit long term Special Use Permits to not more than 5 years. These guidelines which I must follow are more restrictive than preceeding guidelines.

I appreciate your interest in this matter, but as in the past, we both must live with a 5 year limit on your Special Use Permit.

Sincerely,

James B. Thompson

cc:
West Unit Manager w/ incoming
Concessions Specialist w/ incoming

United States Department of the Interior

NATIONAL PARK SERVICE

ROCKY MOUNTAIN REGIONAL OFFICE

655 Parfet Street
P.O. Box 25287
Denver, Colorado 80225

IN REPLY REFER TO:

L3031 (RMR-MP)

SEP 24 1986

Memorandum

To: Superintendent, Rocky Mountain National Park

From: Acting Associate Regional Director, Park Operations, Rocky Mountain Region

Subject: Request of longer term for Special Use Permit No. SP1529-84-003

We waited to respond to your memorandum of August 28, until we received the final version of NPS-53, Guidelines for Special Park Uses. The guide has been approved and is at the printers now. We received two advance copies for our use.

Enclosed is a copy of Appendix 23, dealing with the Special Use Permit and its new form. The new form has received OMB approval, and will also be printed for distribution.

You will note in paragraph No. 3, on page 1, that Long Term Special Use Permits are limited to terms "not to exceed 5 years." This policy was established to provide not only for annual, continuous review, but to allow a time frame for Superintendents to take more definitive action as times and conditions change. Some uses or the terms they operate under may become inappropriate or feasible alternatives arise to their continuance.

Each park will be receiving a copy of NPS-53 before too much longer. While we can understand the opinions expressed in your memorandum and attachments, we feel the guideline policy should be adhered to as we get into its application.

John F. Chapman

Enclosure

GRAND LAKE METROPOLITAN RECREATION DISTRICT
P.O. Box 590
1111 County Road 48 (a/k/a Golf Course Road)
Grand Lake, Colorado 80447

Pro Shop (303) 627-8226 Maintenance (303) 627-3429

August 8, 1986

Larry Reed
West Unit Manager
Rocky Mountain National Park
Box 100
Grand Lake, Colorado 80447

Re: Special Use Permit No. SP1529-84-0003 (Grand Lake Metropolitan Recreation District)

Dear Mr. Reed:

The Grand Lake Metropolitan Recreation District currently holds the above-referenced special use permit authorizing it to use the Harbison Ditch and a maximum of 1.5 c.f.s. of United States owned water rights from the ditch for the irrigation of a public golf course in the Grand Lake, Colorado area. This special use permit expires on December 31, 1988 and is the fifth in a series of 5-year special use permits which the District has held beginning in 1963.

The Harbison Ditch water leased from the Park Service under special use permit is the only water presently available to the District to irrigate the golf course. Because of its dependence on the Harbison Ditch water to irrigate the golf course and its investment in the golf course, the District would like the Park Service to consider renewing the special use permit in the future for a term longer than five (5) years. Although the current special use permit does not expire until December 31, 1988, we would like to discuss with you the possibility of a long-term arrangement well in advance of that date so that both the Park Service and the District will have ample time to consider and evaluate the alternatives available.

The District's legal counsel has reviewed the statutes, rules and regulations governing the National Park Service, and advises that there doesn't appear to be anything limiting special use permits to five years. As you may know, the land for the golf course was acquired from the United States, and that is where the Harbison Ditch water now used by the District historically was

used. As we understand it, the National Park Service has no other use for the water. Under these circumstances, the District's request for a long-term permit seems reasonable.

Thank you for your consideration of this request. We would like to have the opportunity to meet with you to discuss this, and will look forward to hearing from you about scheduling a meeting.

Sincerely,

GRAND LAKE METROPOLITAN RECREATION DISTRICT

By Orel Hims
President

10-15-1985: memorandum to waterside unit manager from chief regarding status of nps water rights in the harbison ditch

United States Department of the Interior

NATIONAL PARK SERVICE

WATER RESOURCES DIVISION
301 SOUTH HOWES ST., ROOM 343
FT. COLLINS, COLORADO 80521

IN REPLY REFER TO:

October 15, 1985

L54 (479)
ROMO/Water Rights

Memorandum

To: Larry Reed, Waterside Unit Manager, ROMO

From: Chief, Water Rights Branch
Water Resources Division, FTC

Subject: Status of NPS Water Rights in the Harbison Ditch

It was a pleasure to have met you last week and discussed your water rights issues and concerns. Further, it was refreshing to hear Mr. Daxton's position on our water rights concerns.

As agreed, I have examined our dockets to determine the status of NPS water rights for the Harbison Ditch. As a result of my investigation, I have little knowledge to add to our discussion with Mr. Daxton. The Colorado State Engineer's listing of water rights for Water Division 5, District 51, shows the Harbison Ditch having a water right for 4.46 cfs with ajudication dates of August 3, 1911 and August 11, 1906 and an appropriation date of July 15, 1893. Our records indicate the United States of America owns the right to divert from Tonahutu Creek through the Harbison Ditch 3.345 cfs from April 15 to November 1 and 2.765 cfs from November 1 to April 15 each year for domestic, irrigation, and fish culture purposes. This water right carries a Priority No. 1 on Tonahutu Creek and Priority No. 199 in Water District No. 51, which makes this a very senior and valuable water right. These water rights were acquired through our purchase of Harbison Ranch property with Mr. Jim Kelley acting as their attorney.

Examination of our maps show a lateral diversion which heads northerly from the Harbison Ditch above the current location of the visitor center. This ditch was apparently used to irrigate the SW portion of Section 30, which was owned by the Harbisons. This lateral does not lead directly to any defined water course. Further, it appears the water right has never been divided to provide water specifically to the north lateral.

Our records do not contain information about the 1.115 cfs which is apparently owned by the Columbine Lake Partners nor our cooperative agreement to provide 1.5 cfs of our water to irrigate the golf course. It is reasonable to assume the 1.115 cfs is a valid right with the same priority that we have on the Harbison Ditch.

A point of concern to us is the delivery of water from the ditch to Columbine Lake. At this time, the ditch should deliver a minimum of 2.615 cfs (1.115 cfs to the Columbine Lake Partners and 1.5 cfs for irrigation of the golf course). We feel that it is important that NPS resume measurement of the flows in the ditch below the visitor center so that we can assure these obligations are being met. In this regard, we should reactivate the Parshall Flume to obtain these measurements.

Another concern, which we feel should be addressed in the near future, is the beneficial use of the balance of our water rights in the ditch. Currently we are using 1.5 cfs to irrigate the golf course; this leaves 1.845 cfs of our April 15 through November 1 entitlement. In order to protect this right, we need to show that it is being put to beneficial use as decreed, i.e. irrigation, domestic needs, or fish culture. If it is not being diverted from Tonahutu Creek, we should consider changing our point of diversion and use.

If we can be of further help, please contact me at (303) 221-5341.

Stanley L. Ponce

cc: RMR - Assoc. Reg. Director/Operations
RMR - Ron Hermance

10-18-1976: letter to united states department of the interior from richard doucette regarding harbison ditch

OCT 1 [illegible] 1976

RICHARD P. DOUCETTE
ATTORNEY AT LAW
P. O. BOX 666
GRANBY, COLORADO 80446
303-887-2169

October 18, 1976

United States Department of the Interior
National Park Service
Rocky Mountain National Park and
Shadow Mountain National Recreation Area
Estes Park, Colorado 80517

ATTENTION: Mr. James W. Godholt

Re: Harbison Ditch

Dear Mr. Godholt:

Apparently due to low water conditions in the North inlet to Grand Lake it has been impossible for the District's employees to conduct the testing of the Harbison Ditch which I mentioned in my letter to Mr. Contor of August 24, 1976. Since the tests have not been completed, the District is unable to determine the present capacity of the Harbison Ditch or what might be necessary to increase that capacity so that it might carry the water rights which it has been decreed and the additional 5/8 cubic feet which the District owns in the Cairns No. 3 Ditch.

It appears the testing of the Ditch will have to be conducted in the spring when the water level in the North inlet to Grand Lake is sufficient to divert the full capacity of the Ditch.

Since the testing of the Ditch has not been completed the District is unable to determine what repairs or modifications might be necessary on the Ditch in order to make it adequate for the proposed diversion. Hopefully that work can be completed early next spring and at that time I will recontact your office regarding this matter.

Thank you very much for your cooperation.

Yours truly,

Richard P. Doucette

Richard P. Doucette

RPD:fr
cc: Mr. Ed Raffety
Mrs. Fran McNeely
Mr. Hal Bishop
Mr. Carl Anderson
Mr. Jim Liles

09-10-1976: letter to attorney at law from superintendent regarding proposed change in the point of diversion for cairns no. 3 ditch

Rocky Mountain National Park
and
Shadow Mountain National Recreation Area
Estes Park, Colorado 80517

SEP 10, 1976

Mr. Richard P. Doucette
Attorney at Law
P.O. Box 666
Granby, Colorado 80446

Dear Mr. Doucette:

In your letter of August 24, you made inquiry on behalf of the Board of Directors of the Grand Lake Metropolitan Recreation District, as to the National Park Service's position with regard to the proposed change in the point of diversion for Cairns No. 3 Ditch to the headgate of the Harbison Ditch.

There is no cause for the National Park Service to object to the proposed change on legal grounds, as the change would not result in any adverse affect on water rights owned by the National Park Service.

Our only question concerns the physical capacity of the Harbison Ditch to carry an increased amount of water, without major re-construction of the ditch. Presuming that the headgate is presently adjusted to divert 4.46 cubic feet of water per second allowed by the two 1911 Decrees, we note that there is overflow of water at several points along the ditch. This is a matter of some concern to us, as the overflow is generally detrimental to the vegetation and terrain, including a hiking trail that parallels the ditch. This situation has recently worsened, perhaps due to the conducting of capacity tests you mention in your letter.

We would appreciate your conveying to the GLMRD Board of Directors, our request that these tests be controlled so as to identify ditch repair or modification needs, while limiting overflow to a negligible

09-10-1976: letter to attorney at law from superintendent regarding proposed change in the point of diversion for cairns no. 3 ditch

amount. Repairs to the ditch are certainly essential to carry the amount being diverted at this time, as indicated by ditch bank failure between .3 and .4 mile below the diversion point.

We will be happy to discuss with you or the Board any repairs that may be necessary, in excess of what can be accomplished by hand work, so that the ditch may be made capable of carrying the total 5 cfs which would result by the addition to the Harbison Ditch of the 5/8 cfs from the Cairns Ditch.

Sincerely yours,

James W. Godbolt

Superintendent

Acting

cc:

West Unit Manager

JELiles:slw 09/08/76

08-24-1976: letter to superintendent from richard p. douchette regarding special permit for irrigation of the golf course

RICHARD P. DOUCETTE
ATTORNEY AT LAW
P. O. BOX 668
GRANBY, COLORADO 80446
303-887-2169

August 24, 1976

Mr. Roger J. Contor, Superintendent
Rocky Mountain National Park
Estes Park, Colorado 80517

Dear Mr. Contor:

Once again, I have been requested by the Board of Directors of the Grand Lake Metropolitan Recreation District to make inquiry with you regarding the District's water rights. As you may recall, I contacted you last November regarding the Special Permit for the water which is being used on the District's property for irrigation of the golf course. The District has nearly completed the construction of an additional nine holes for the golf course and continues to have deep concern regarding their water rights.

In 1962 the District did obtain an interest in 5/8 cfs in Cairns number 3 ditch. The headgate for this ditch is located on the North inlet to Grand Lake. It is my understanding from a discussion I had with John Holzwarth that in the early 60's the District did consider transferring this water right to use on the golf course, however, due to its Special Permit from the Park Service it appeared unnecessary to make that transfer. Now, with the addition of nine more holes to the golf course and the increasing concern regarding water rights in the Grand Lake area, the Board of Directors would like very much to transfer the point of diversion to Cairns number 3 Ditch to the headgate of the Harbison Ditch. Preliminary investigation has been conducted by Leonard Rice Consulting Water Engineers regarding the transfer and it does appear that it could be completed without an adverse affect on junior or senior appropriators.

The District would appreciate knowing if the Park Service would have any objections to the District having the point of diversion for the Cairns Ditch transferred to the headgate of the Harbison Ditch? If that would be acceptable to the Park Service, the District would like to proceed this winter with application to the Water Court in

Glenwood Springs for the change in point of diversion.

In addition, the District is in the process of having an examination made of the Harbison Ditch to determine if it can carry the 1.5 cfs of water which the District has permission to use pursuant to Special Use Permit No. 669-3-205. Preliminary examination of the Ditch by Mr. Bishop of the consulting firm would seem to indicate that the Ditch has the capacity with some minor reconstruction to carry the water which has been adjudicated to it. Certain tests are proposed to be run this fall on the Ditch so that a final determination can be made as to what work will need to be performed in order to carry the water that is necessary to supply the Recreation District and Columbine Lake. It is my understanding that discussions have been held between Mr. Bishop and Mr. Liles regarding this work and that the project will proceed this fall.

In any case, I would appreciate knowing if the Park Service will object to a change in the point of diversion for Cairns No. 3 Ditch to the headgate of the Harbison Ditch. If there are to be certain conditions under which the transfer could be made, I would also appreciate knowing that those conditions might be so that I can discuss them with the Board of Directors of the Recreation District.

Yours truly,

Richard P. Doucette

Richard P. Doucette

RPD:fr
cc: Mr. Ed Raffety
Mr. Jim Liles
Mr. Hal Bishop

Ref. Our File No. 747

12-09-1975: letter to attorney at law from superintendent regarding water right adjudication

United States Department of the Interior

NATIONAL PARK SERVICE

IN REPLY REFER TO:

L3031
xL54

December 9, 1975

Mr. Richard P. Doucette
Attorney at Law
Post Office Box 666
Granby, Colorado 80446

Dear Dick:

We appreciate the concerns of the Grand Lake Metropolitan Recreation District, as expressed in your letter of November 26. I was Management Assistant at Rocky Mountain National Park in the early 1960's and was instrumental in the decision that the National Park Service not make use of the Bureau of Land Management land in question, and instead make it available to the Recreation District. Later I was involved in the lease of the water to the District. We were all pleased that the National Park Service could be helpful in the establishment of an attractive golf course in the Grand Lake area.

As you know, the matter of water right adjudication is one of the focal points of a long-standing argument between state and Federal authority. The issues have been clouded and are likely to remain so for many years. The National Park Service is extremely reluctant to divest itself of any water rights in its possession which were established under state law. Therefore, we prefer to continue the present practice of providing irrigation water under special use permit on a renewable basis. This was clearly understood by all parties involved in the early 1960's, and was quite acceptable to the directors of the Recreation District at that time.

The revocation clause under Condition 21 is standard language for special use permits granted by the National Park Service. While it sounds formidable, it should not be construed as a threat or likelihood of capricious or irresponsible revocation of the permit. The National Park Service has acquired substantial water rights in the Colorado River Valley upstream from the Grand Lake area, along with the several ranches that we have acquired through the years. Within the foreseeable future, I can visualize no need for the National Park Service to revoke any of the 1.5 cu. ft. per second now being made available to the District.

Regarding the change of the present five-year permit to a 20- or 30-year lease, this was also a matter of full understandingaat the time of the original agreements. National Park Service policy limits the term of a special use permit which may be approved to a Park Superintendent to five years. From a practical and political standpoint, a five-year renewable permit is equally as safe or as unsafe as a 20- or 30-year permit. If we could arrange our paper work in 20-year cycles, rather than 5-year cycles, we would be the first to choose the longer term!

We certainly understand the concerns expressed in your letter and are sorry that it is not possible to meet your request. However,iif the board will honor the gentlemen's agreement made between us in the early 1960's, I am sure you will find the National Park Service equally willing to do so, as we have done for nearly 15 years now. Lacking a crystal ball, I would still wager that the golf course will continue to be watered under the present arrangement long after you or I are able to play golf.

Sincerely yours,

(Sgd) Roger J. Contor

Superintendent

cc:
West Unit Manager Liles

Regional Director, RMR w/c inc.

12-01-1975: letter to superintendent from james e. liles regarding expanded water needs

Superintendent 12/01/75

West Unit Manager

Expanded water needs of the Grand Lake Metropolitan Recreation District

I was contacted by County Attorney Dick Doucette today who is seeking, for the Recreation District:

(1) more than the 1.5 cfs granted by our Special Use Permit #6690-3-205 (attached);

(2) a more secure instrument conveying the right to use that water.

The expanded needs are due to the golf course expansion underway (additional 9 holes open to public in 1976). As for the interest in a more secure right to the water, they are worried by the permit wording in Condition 21:

"In addition to being revocable at the discretion of the Director, it is understood and agreed that this permit shall be revoked if and when the United States needs the entire or any portion of the 1.5 cfs, etc."

Dick expressed the District's interest in purchasing outright from NPS, the right to, I think 2 cfs - or, failing that, securing a 20 or 30 year lease on that amount.

I suggested that their request be sent in writing to you, explained the NPS policy of acquiring and retaining all water rights to sources on park lands, and tried to assuage their fears of permit termination by assuring him that we had no such plans. I also pointed out that the water rights to Harbison Ditch were in 2 decrees - and described both to him - reading from the attached docket.

James E. Liles

cc:
West Unit Manager

JELiles:slw 11/30/75

11-26-1975: letter to superintendent from attorney at law regarding special use permit number 669-3-205

RICHARD P. DOUCETTE
ATTORNEY AT LAW
P. O. BOX 686
GRANBY, COLORADO 80446
303-887-2189

November 26, 1975

Mr. Roger J. Contor, Superintendent
Rocky Mountain National Park
Estes Park, Colorado 80517

Re: Special Use Permit number 669-3-205

Dear Mr. Contor:

I have been requested by the Board of Directors of the Grand Lake Metropolitan Recreation District to make inquiry with the Park Service to determine if it would be possible for them to acquire ownership of 1.0 cfs of water from the Harbison Ditch, At the present time the District is using 1.5 cfs of water from this Ditch pursuant to a Special Use Permit issued on January 1, 1973 through your office.

At the present time the District is in the process of adding an additional nine holes of golf to the course and they have requested that I review their water rights to determine if there will be adequate water available to supply the new addition. In the course of reviewing the Special Use Permit that they are now working under, I find there is no assurance of the water being available since the Permit can be revoked at any time the Park feels it needs the water which is presently being used by the District. For that reason, I have recommended to them that they attempt to acquire the water outright and would appreciate it if you would advise me as to whether or not this would be possible.

If it is impossible to purchase the water outright, or if purchase of the water would be extremely expensive, the District would then be interested in determining if a more favorable Use Permit could be obtained. Specifically, we would like to know if it would be possible to get the Permit for a time certain, hopefully at least twenty years, without discretionary revocation or if revocation is possible, that a substantial period of notice prior to revocation be provided.

Under the existing Permit, the District could find itself in

an extremely difficult position if the Park should find a need for the water and terminate the Permit in mid-summer.

I would appreciate it very much if you could advise me regarding these possibilities at your earliest convenience since the District would like to have some of these matters resolved sometime this winter.

Yours truly,

Richard P. Doucette

RPD:fr
cc: Mr. Ed Raffety
Mr. Jim Liles

United States Department of the Interior
BUREAU OF RECLAMATION
SOUTH PLATTE RIVER PROJECTS - LOWER MISSOURI REGION
P.O. BOX 449
LOVELAND, COLORADO 80537

IN REPLY
REFER TO: S-400
775.

April 23, 1975

Mr. Ed C. Raffety, President
Grand Lake Metropolitan Recreation
District
Grand Lake, Colorado 80447

Dear Mr. Raffety:

We are in receipt of your April 17, 1975, letter and an April 7, 1975, letter from Dwight Miller, requesting permission to excavate topsoil from the confines of Lake Granby.

In visiting with Mr. Miller, via phone on April 21, 1975, we are under the impression that your plans are fairly indefinite at this time as to the quantity of soil you will be needing, or when your financial position will permit you to excavate the material.

As stated to Mr. Miller, we cannot approve a request from an individual or profit-oriented company. We can, however, make the soil available to governmental or quasi-public entities for such purposes as landscaping on a public golf course.

The Bureau and the National Park Service may at some time in the future require some of the soil for recreation areas and landscaping; however, we believe there is sufficient material to accommodate your immediate requirements. When your plans are firmed up, please provide us with the quantity of soil you desire to excavate and the time frame that you propose to excavate the material. We will then meet with you on the site and attempt to reach an agreement with your District on the specific terms of excavating and cleanup work. If you plan to use a private contractor to excavate the material, please furnish us a copy of the contract or the agreement between you and him before he starts to work.

Our inflow forecasts indicate that Lake Granby will fill again this year sometime during July. If you are planning to excavate the material in 1975, the most desirable time would probably occur during the mid-May

to mid-June period. The lake will probably not be low enough to permit excavation again until about the same time in 1976.

Please feel free to contact this office or our Granby Pumping Plant any time we can be of assistance to you.

Sincerely yours,

H. D. STYVE
ACTING FOR
Robert L. Berling
Project Manager

cc:
Mr. Dwight Miller
Box 536
Tabernash, CO 80478

Mr. Roger Contor, Superintendent
Rocky Mountain National Park Service
Estes Park, CO 80517

Mr. Jim Liles, West Unit Manager
Rocky Mountain National Park Service
Grand Lake, CO 80447

Mr. Robert Murray
West Slope Area Branch Manager
U. S. Bureau of Reclamation
Grand Lake, CO 80447

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L54 RONO

MAY 2 4 1963

Memorandum

To: The Director

From: Acting Assistant Regional Director, Midwest Region

Subject: Request of Grand Lake Metropolitan Recreation District for use of Harbison Ditch, Rocky Mountain

Enclosed is a copy of Superintendent Hanks' April 29 memorandum which clarifies some points raised in Mr. Dunn's memorandum of January 31, 1963. Also enclosed is a copy of Howard W. Breckon's January 24 letter. Mr. Breckon explains his attitude toward an agreement with the Recreation District for use of his portion of the Harbison Ditch and Columbine Lake to facilitate the District in getting its water as near as possible to the golf course.

Apparently everyone concerned with the Recreation District to divert water from Tonahutu Creek and using the Harbison Ditch would be agreeable, providing the Recreation District is willing to accept a Junior Priority of its water right.

In case the District is supplied under a special use permit, 1.5 cubic feet per second of time of Federal Water, the Harbison Ditch should not require any enlargement. The Federal Water Right in Harbison Ditch is now 1.65 cubic feet per second of time; however, any agreements with the Recreation District should include conditions for maintenance of the ditch.

The enclosed drawing was prepared in this office and shows:

1. The relative locations of the Recreation District's area and Shadow Mountain National Recreation Area boundary, Grand Lake.

2. New wall at south edge of Harbison Meadows, and diversion from Harbison Meadows.

3. Approximate water system and reservoir locations.

Please advise if further data is desired for your evaluation of the Recreation District's proposal.

[Sgd] R. L. McKown

In duplicate

Acting Assistant Regional Director

Enclosures

cc: WODC - in duplicate w/enclosures
Superintendent, Rocky Mountain w/enclosures

01-24-1963: letter to superintendent from howard w. breckon regarding water for the new golf course

A SIXTY-FIVE ACRE PRIVATELY
OWNED LAKE SITUATED 1½ MILES
FROM GRAND LAKE P. O

Columbine LAKE LODGE

GOOD FISHING

Howard W. Breckon, Manager
Phone GRAND LAKE, COLORADO
MAin 7 1681

Jan.24,1963

Mr. Allan Hanks
Supt. Rocky Mt. Nat. Park
Estes Park, Colo.

Dear Mr. Hanks;

I have talked with Jeff Snider several times regarding water for the new golf course which they are building near my Columbine Lake property. He thought it would help if I let you know my feelings in the matter. As you know, I have water rights in the Harbison ditch which feeds water into Columbine Lake during the summer months.

I am very anxious to help as I feel the golf course will be a great asset to the Grand Lake area. I have agreed to let the Grand Lake Recreation Ass'n. use my part of the ditch, and the lake, to get the water as near the course as possible. I have also agreed to give them a permanent easment on a strip of land from the lake to the course. They would have to install a pump on the lake shore and pump the water over a hill to the course.

I hope that the Park Service will see fit to cooperate in im any way to help.

Yours truly,

Howard W. Breckon

Copy to Mr. Foy Young

02-19-1963: memorandum to regional director from chief regarding request of grand lake metropolitan recreation district for use of

February 19, 1963

L54-RLW

Memorandum

To: Regional Director, Midwest Region

From: Chief, Branch of Water Resources

Subject: Request of Grand Lake Metropolitan Recreation District for use of Harbison Ditch, Rocky Mountain

Mr. Aiton's memorandum of January 25 on the above subject and the accompanying enclosures have been examined by Mr. Dunn and, as shown by his memorandum of January 31, (copy enclosed), he believes we need additional information before Mr. Aiton's proposal can be evaluated properly.

Please go over Mr. Dunn's memorandum carefully and answer all his questions. An ozalid print of Drawing No. 6982 mentioned in Mr. Dunn's memorandum is being sent to you under separate cover for delineation of the Recreation District's boundaries, the pending boundary changes at the Grand Lake Lodge area, etc., as outlined by Mr. Dunn.

SIGNED
R. W. Reed

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Enclosure

Separate cover:
Transparency of Drawing No. 6982

cc:
Superintendent, Rocky Mountain, w/c Dunn's memo
Chief, WODC (2), w/c Dunn's memo

January 31, 1963

L54-RLW

Memorandum

To: Chief, Branch of Water Resources

From: Supervisory Hydraulic Engineer, A. van V. Dunn

Subject: Request of Grand Lake Metropolitan Recreation District to use Harbison Ditch, Docket No. 23, and transfer Cairns Ditch No. 3, Alien Water Right No. 6, Water Rights thereto, Rocky Mountain

With his memorandum of January 25 Mr. Aiton has included a copy of Mr. Whitcraft's memorandum of December 13, 1962, which closes with the question of where I learned, or got the idea that the subject District had acquired the Kelley interests in the Harbison Ditch. My memorandum of November 23, 1962, was based on telephone discussions, as indicated.

I appear to have been incorrect in the logical conclusion from the limited telephone information, in assuming that the District had acquired the Kelley interests in the Harbison Ditch. It would be unthinkable for the owner of a decreed right to adjudicate a change in point of diversion to a ditch in which he had no interest. I was not advised by telephone that the District had purchased the Cairns Ditch No. 3 rights with the assumption that it would later be possible to obtain the desired interest in the Harbison Ditch.

There are a number of misconceptions in the Superintendent's statements in his memoranda concerning what constitute water rights, priority of title, and access provided by interest in a ditch. I have not yet studied the resume of the water rights school to determine whether they were all corrected during the school discussion, but assume that they were from the report of December 27, 1962, on the long distance call to Assistant Regional Solicitor Eynan.

We have not been provided with what I consider adequate information from which to evaluate the proposal in Mr. Aiton's memorandum of January 25, but I do not think they should all be accepted in their present form. First, we do not have a map showing the location and boundaries of the District area, and I think such a map might be a print of Drawing No. 6982 (we have tracing), with addition of pending boundary changes at Grand Lake Lodge area, the boundaries of District and Shadow Mountain Recreation area, Shadow Mountain Lake, the golf course on the District area, and the newer proposed well and plan of

the proposed Federal Grand Lake Entrance water system. Second, we should have a complete evaluation of the Federal use of its interests in the Harbison Ditch and appurtenant water rights and irrigation of the old Harbison meadow and its report use as a winter elk range.

It was always my assumption that the United States could change the purpose of use of enough of its Harbison Ditch rights to cover domestic use at the Entrance area, and might also irrigate part of the Entrance area in lieu of part of the Harbison meadow. However, those changes were conceived to use water formerly used on portions of the Harbison meadow which were traversed by the new road, and no longer irrigated. I assumed that the continued irrigation of the rest of the meadow was essential to the maintenance of the winter elk range. This irrigation would be when the District also wished to irrigate..

While Mr. Peterson has correctly stated that the District cannot condemn the Federal interests in the Harbison Ditch and appurtenant rights, he seems to have overlooked the fact that the Kelley interests could be condemned if still privately owned. This would give the District the necessary access and interest for its suggested change in point of diversion of the Cairns No. 3 Ditch rights. I believe that Mr. Peterson would also agree that, with such interests, the District could enlarge the ditch, and obtain a junior priority to supplemental water if the Cairns and Kelley rights were inadequate. However, the Kelley rights should be adequate, the junior rights would have little value if all other rights were exercised, since Tonohutu Creek is now fully or over appropriated if the town of Grand Lake exercises all of its decreed rights. The United States could, of course, prescribe standards and landscape features for any ditch enlargement; and limit its responsibility for any part of the cost of enlargement, as suggested by Mr. Aiton.

Messrs. Peterson, Hanks and Aiton have recognized the limited exceptional conditions under which this Service will usually permit the diversion of water from within a park or monument for use outside. Unless the District obtains an interest in the Kelley title to the Harbison Ditch, the only justification for permitting the District to divert such water would be a Park Service interest in supporting the District facilities. This is an administrative or policy matter.

As stated in my memorandum of November 23, 1962, and apparently recognized by the authors of enclosures with Mr. Aiton's memorandum, all present appropriators of the waters of Tonohutu Creek should oppose the transfer of the Cairns Ditch No. 3 right from North Inlet to a point on its upstream tributary Tonohutu Creek, because it has a priority senior to all established rights to that creek. They can fight such a change by showing the potential loss of value of the established rights to Tonohutu Creek above its confluence with North Inlet. The change in park boundary and acquisition of part of the Mitchell tract will permit the Park Service

to restrict access more than heretofore, but it has never had jurisdiction over all land traversed by the Creek, and the United States has lost title to some of that land since it was patented. This Service should determine whether the owners of patented land, conduit easements, and water rights will take all possible measures to prevent the change in point of diversion.

I also pointed out, in my November 23, 1962, memorandum, that the town of Grand Lake has established rights to about twice the water of Tonohutu Creek which it will probably ever need, unless it decides to serve far more than the residents and industries in the town. The town could obtain considerable revenue from additional water sales. It is also conceivable, subject to more knowledge of the location and evaluation of the proposed District golf course, that the District might obtain a water supply from the town with less pump lift than Messrs. Aiton and Hanks have suggest as the alternative to water from the Harbison Ditch. This would help the town strengthen its rights to water of the creek which conflict with those of the United States (Park Service).

I also question whether the Park Service should base its fee for a permit on the price the Bureau of Reclamation charges for water. The value of irrigated District land would be greater than the value of land irrigated to produce lettuce, or to maintain an elk range. Moreover, the town would doubtless charge more man $1.50 per acre-foot, or $0.00232 per 1,000 gallons from its municipal water system.

A. van V. Dunn

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JAN 25 1963

Memorandum

To: The Director

From: Acting Assistant Regional Director, Midwest Region

Subject: Request of Grand Lake Metropolitan Recreation District for use of Harbison Ditch, Rocky Mountain

Enclosed, in duplicate, are copies of correspondence pertaining to the subject request, namely:

1. George S. Fuller's letter of October 18, 1962 to Superintendent Hanks.

2. Mr. Hanks' reply to Mr. Fuller, dated November 1, 1962.

3. Mr. Hanks' memorandum of November 1, 1962 to the Regional Director.

4. John F. Aiton's November 16, 1962 memorandum to the Superintendent.

5. Superintendent Hanks' November 26, 1962 memorandum to the Regional Director.

6. Assistant Superintendent Whitcraft's December 13, 1962 memorandum to the Regional Director.

7. Report of long distance telephone call on December 19, 1962 to Clarence Eynon, Assistant Regional Solicitor, Denver, from Messrs. Peterson, Cook, Fry, Aiton and Mott, Midwest Regional Office.

It appears if the District should obtain a water right at the diversion point of Harbison Ditch, which could only be accomplished with approval from all appropriators on Tonahutu Creek, their use of Harbison Ditch would establish a continuing right in the Harbison Ditch and this might prove to be undesirable. We understand the golf course which the Recreation District is constructing is located on Federal lands.

Mr. Whitcraft, Assistant Superintendent, in his December 13 memorandum proposes two possibilities for the Recreation District to obtain a supply of water from Tonahutu Creek for use on their golf course.

> "1. We might still allow change in point of diversion of the Cairns #3 right to the Harbison Ditch if the Recreation District would be willing, through agreement with all interested parties, to accept a priority junior to all existing rights on Tonahutu Creek. This would involve Harbison Ditch, the Mitchell Ditch, and the Town of Grand Lake pipelines. It would also involve over-appropriation of the Ditch and place the golf course water supply in jeopardy during times of water shortage.
>
> "2. By revocable special use permit we might allow the Recreation District's use of, say, 1.5 cubic feet per second of the 3.345 cubic feet per second available to the United States from April 15 to November 1. This method would retain ownership in the name of the United States as a precaution against future water shortages. For practical purposes it should provide adequate water for both the Recreation District's and the National Park Service's needs for the foreseeable future. It would also be our recommendation that the Recreation District retain ownership of the rights to .625 cubic feet per second in Cairns #3, as a safeguard against the possible time when the National Park Service might withdraw permission to use the Harbison rights. They might then utilize the Cairns #3 rights by pumping directly from Shadow Mountain Lake to the golf course, a vertical lift of approximately 250 feet."

In the second proposal you will note there is proposed a quantity of 1.5 cubic feet per second. This is considerably in excess of the .625 cubic foot per second the District obtained by purchase of the Cairns Ditch No. 3 water right.

As the Service does not anticipate in the foreseeable future a need for the full amount of water (Federally owned) in the Harbison Ditch, we recommend the Recreation District be granted a revocable special use permit to use 1.5 cubic feet per second of our Harbison Ditch water under the following conditions:

> 1. The Recreation District will be permitted to use 1.5 cubic feet per second of the Federally-owned water right from the Harbison Ditch diversion, and the use of said ditch across Park land.

2. Any reconditioning or maintenance of the Harbison Ditch, necessary to provide transport for all water rights in the ditch, shall be made by the Recreation District without any expense to the United States. Further, all reconditioning or maintenance work shall be accomplished to the satisfaction of the United States.

3. The Recreation District shall only be permitted to use water under this permit during the period of April 15 to November 1 of each year.

4. An annual fee shall be paid by the Recreation District to the United States for the water at a rate of $1.50 per acre foot, and payable on September 1 of each year.

5. A satisfactory means of determining the amount of water used each year shall be provided and installed by the Recreation District.

6. The permit shall be revocable, and for a period not to exceed five years, and may be renewed for an equivalent period, providing the United States does not need the water and the Recreation District has fully complied with the terms of the permit.

The legal aspects of this proposal, exclusive of the special provisions, have been cleared with the Regional Solicitor's office.

As this problem is an administrative matter, we would appreciate your comments and concurrence.

(Sgd) John F. Aiton

John F. Aiton
Acting Assistant Regional Director

In duplicate

Enclosures

cc:
Superintendent, Rocky Mountain, w/item No. 7 enclosure
Chief, WODC (2), w/enclosures

01-25-1963: notes listing head gate location, priority, amount of decree

From Meekel 1970

CH/SYSTEM	HEADGATE LOCATION	PRIORITY	AMOUNT OF DECREE
KE LODGE AND RANGER WATER SYSTEM	TWO POINTS OF DIVERSION: (1) ATA POINT WHERE THE N.W. OF SECTION 32, T. 4 N., R. 75 W. BEARS N. 31° 12' W, 1800.55 FEET (2(AT A POINT WHERE THE N.W. CORNER OF SECTION 32, T. 4 N., R. 75 W. BEARS N. 87° 52' WEST, 1756.34 FEET.	Domestic Water THIS WATER RIGHT HAS NOT BEEN ADJUDICATED. FIRST BENEFICIAL USE OF WATER FROM POINT (1) WAS IN 1920 AND FROM POINT (2) WAS IN 1927.	0.024 C.F.S. IS CLAIMED AS OF JUNE 1, 1920, AND 0.048 C.F.S. AS OF JULY 1, 1927, OR A TOTAL OF 0.072 C.F.S. CLAIMED FOR DIVERSION FROM EITHER POINT.

NOTE: CLAIMED BY THE UNITED STATES, FILING NO 17579 ACCEPTED BY THE STATE ENGINEER OF COLORADO ON JANUARY 21, 1946.

Harbison DITCH

O. BY STREAM WATER DISTRICT	POINT OF DIVERSION - WEST BANK OF TONAHUTU CREEK AT A POINT WHERE THE E. 1/4 CORNER OF SECTION 31, T. 4 N., R. 75 W. BEARS SOUTH 31, 50' WEST, 2498 FEET.	IRRIGATION PRIORITY NO. 199, AND TROUT CULTURE PRIORITY NO. 1 IN WATER DISTRICT NO. 51, AS OF JULY 15, 1893 ON ACCORDANCE WITH TWO DECREES OF COLORADO DISTRICT COURT, DATED JULY 21, 1911 AND AUGUST 2, 1911.	4.46 C.F.S. PERMITTED TO FLOW FROM TONAHUTU CREEK AT SAID POINT OF DIVERSION AS FOLLOWS: FOR USE BY THE UNITED STATES, 3.345 C.F.S. FROM APRIL 15 TO NOVEMBER 1 AND 2.765 C.F.S. FROM NOVEMBER 1 TO APRIL 15. FOR USE AT COLUMBINE LAKE, 1.115 C.F.S. FROM APRIL 15 TO NOVEMBER 1, AND 1.695 C.F.S. FROM NOVEMBER 1 TO APRIL 15.

appraised in 1959 @ $102,000

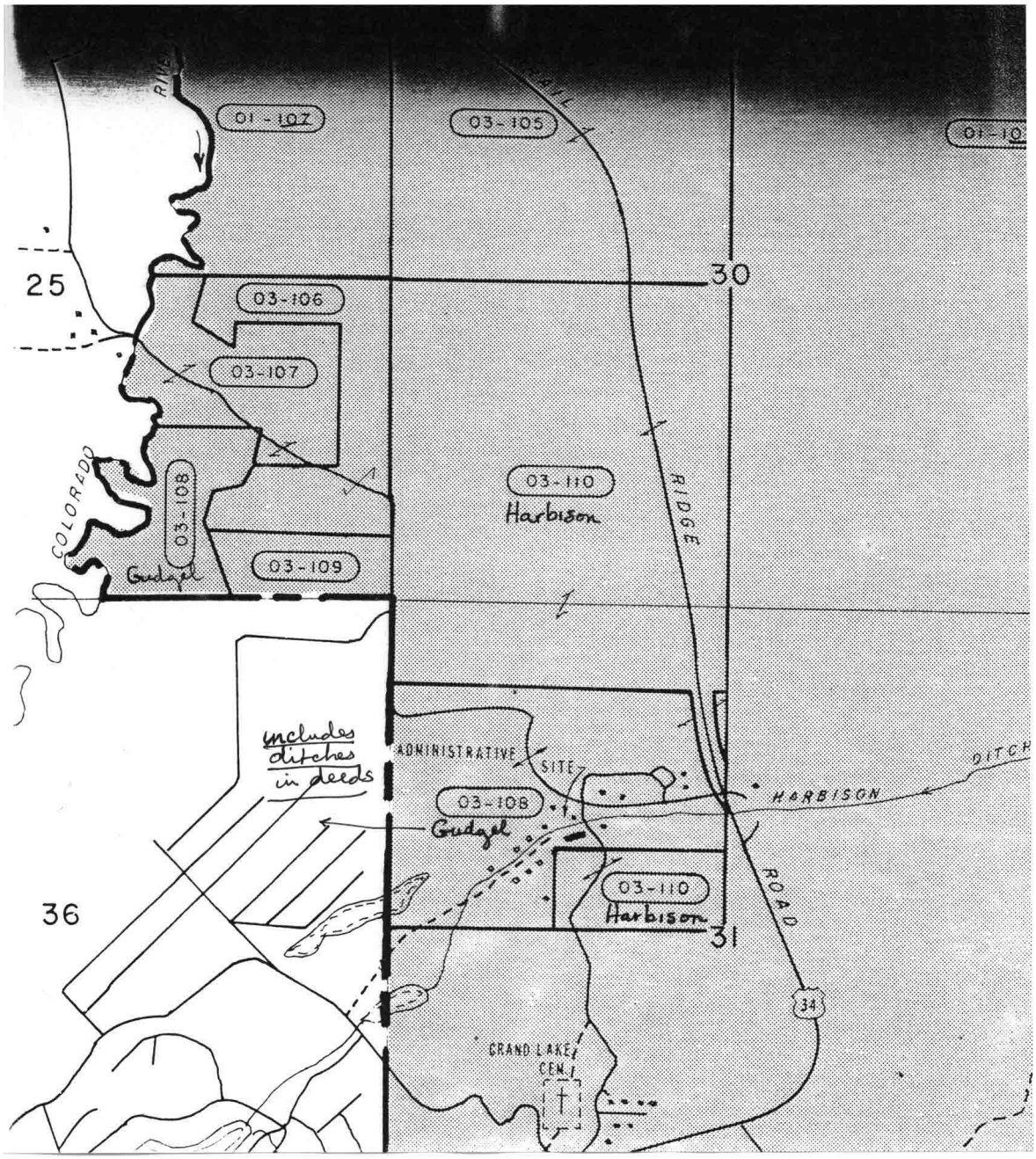
NOTE: OWNED BY THE UNITED STATES AND PROPRIETOR OF COLUMBINE LAKE. UNITED STATES INTEREST ACQUIRED BY PURCHASE FROM HARBISON, KELLY AND GUDGEL.

Gudgel Deed #124 03-108 11/7/52

ITCH	POINT OF DIVERSION - WEST BANK OF ONAHU CREEK AT A POINT WHERE THE S 1/4 CORNER OF SECTION 12, T. 4 N., R. 76 W., BEARS SOUTH 54° 10' WEST, 2060 FEET.	IRRIGATION PRIORITY NO. 1 ON OHAHU CREEK, WATER DISTRICT NO. 51, WITH 5.1 C.F.S. AS OF APRIL 25, 1889 AND 2.4 C.F.S. AS OF MAY 16, 1941 IN ACCORDANCE WITH A DECREE OF THE GRAND COUNTY DISTRICT COURT, JULY 15, 1941.	7.5 C.F.S. PERMITTED TO FLOW FROM OHAHU CREEK AT SAID POINT OF DIVERSION AS FOLLOWS: 3.5 C.F.S. FOR USE OF THE UNITED STATES, AND 4.0 C.F.S. FOR USE OF THE OWNERS OF THE GREEN MOUNTAIN AND OHAHU RANCHES.

NOTE: 3.5 C.F.S. OWNED BY THE UNITED STATES, ACQUIRED BY PURCHASE FROM CARL AND ADA NELSON, BY DEED, DATED JULY 22, 1954.

01-25-1963: map of harbison area



12-27-1962: letter to assistant regional solicitor from peterson, cook, fry regarding report of long distance telephone call

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
MIDWEST REGION
1709 Jackson Street
Omaha 2, Nebraska

1. Cook 12/27
2. ~~Jacobs~~ 12/28
3. ~~Aiton~~ 12/31
4. Mott
5. Fry
Files

IN REPLY REFER TO:
L54

December 27, 1962

Report of Long Distance Telephone Call

To: Clarence Eynon, Assistant Regional Solicitor, Denver

From: Messrs. Peterson, Cook, Fry, ~~Aiton~~ and Mott

Mr. Eynon was telephoned on December 19 so that the individuals named above could discuss the possibilities suggested by the Superintendent's December 13 memorandum for furnishing water to the Grand Lake Metropolitan Recreation District.

In regard to the first possibility as outlined in the Superintendent's memorandum, Mr. Eynon stated that it would probably be possible for the District to change the point of diversion of the Cairns #3 right from the north inlet to the tributary stream of Tonahutu Creek and still retain the priority date on water rights. This could be done only with the consent of the National Park Service, however, since the new diversion on the Harbison Ditch would be within the Park. He also stated that if an agreement were made with all interested parties whereby the Recreation District would accept a priority junior to all existing rights on Tonahutu Creek, that such an agreement would be binding on the Recreation District. Under the circumstances, and this was in answer to a question, Mr. Eynon felt the District would be just as well off if they retained the Cairns #3 right at the existing point of diversion and, with the consent of the Service, merely file for new appropriation rights at the head of Harbison Ditch on Tonahutu Creek. This would give them the same priority and rights that they would obtain from an agreement with all interested parties with existing rights as suggested by the Superintendent.

Mr. Eynon felt the second possibility would be the best course of action for the Service to pursue if we are interested in cooperating with the Recreation District for the purpose of providing water for use in their golf course development and thus enhancing recreational opportunities in Grand Lake. He suggested that if a special use permit were issued, it be limited to a maximum of five years in order to indicate the temporary nature of our authorization for use of water under our present rights in Harbison Ditch. In response to a question as to whether a charge should be made for water furnished under the special use permit, Mr. Eynon stated that it was strictly an administrative matter but he felt that under the circumstances it would be appropriate to make a

charge at least equal to that made by the Bureau of Reclamation when furnishing water from the Big Thompson Project for irrigation purposes. This rate, according to Mr. Eynon, is $1.50 per acre foot. He felt that by authorizing the use of water through a special permit, the National Park Service would not do anything to jeopardize its rights to water from Tonahutu Creek and further, that we would also preclude the Recreation District from obtaining possessory interest or rights in the Harbison Ditch. Under Colorado law an individual has the right to condemn rights in an existing ditch. If it is necessary to provide additional capacity in the ditch to convey the water upon which he has filed, the expense for the additional capacity must be borne by the individual concerned. This right of condemnation is not applicable in Rocky Mountain because the Government is not subject to the condemnation law. Thus, no appropriation of water within the boundaries of the Park can be obtained without the consent of the Park Service.

Following our conversation with Mr. Eynon, it was decided that Mr. Mott would draft a memorandum to the Director requesting authorization for the Superintendent to negotiate with the Recreation District for furnishing water in accordance with the second suggestion of his December 13 memorandum.

Luther T. Peterson, Jr.
Acting Regional Chief of
Operations & Maintenance

cc:
Mr. Cook

12-13-1962: memorandum to regional director from acting superintendent regarding request of grand lake metropolitan recreation

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Rocky Mountain National Park
and
Shadow Mountain National Recreation Area
P. O. Box 1080, Estes Park, Colorado

IN REPLY REFER TO:
L54

December 13, 1962

Reg. Director
Admin. Asst.
Asst. to [illegible]
Admin.
Cons-Int-[illegible] e
Res. Plann g
Prog. Co[illegible]
Info. & Pub s.
Field Solic.
Acton
Watt
Action taken
File

Memorandum

To: Regional Director, Midwest Region

From: Acting Superintendent, Rocky Mountain

Subject: Request of Grand Lake Metropolitan Recreation District for use of Harbison Ditch

Following receipt of a copy of Mr. Dunn's memorandum of November 23, and discussions held at the water rights school December 6 and 7, we have reconsidered our position in reference to subject request.

As mentioned in previous correspondence, we wish to assist the Recreation District in obtaining water for use on their golf course development. Two possibilities now appear:

1. We might still allow change in point of diversion of the Cairns #3 right to the Harbison Ditch if the Recreation District would be willing, through agreement with all interested parties, to accept a priority junior to all existing rights on Tonahutu Creek. This would involve Harbison Ditch, the Mitchell Ditch, and the Town of Grand Lake pipelines. It would also involve over-appropriation of the Ditch and place the golf course water supply in jeopardy during times of water shortage.

2. By revocable special use permit we might allow the Recreation District's use of, say, 1.5 cubic feet per second of the 3.345 cubic feet per second available to the United States from April 15 to November 1. This method would retain ownership in the name of the United States as a precaution against future water shortages. For practical purposes it should provide adequate water for both the Recreation District's and the National Park Service's needs for the foreseeable future. It would also be our recommendation that the Recreation District retain ownership of the rights to .625 cubic feet per second in Cairns #3, as a safeguard against the possible time when the National Park Service might withdraw permission to use the Harbison rights. They might then utilize the Cairns #3 rights by pumping directly from Shadow Mountain Lake to the golf course, a vertical lift of approximately 250 feet.

C.O. MAILED TO
BY ..... DATE .....

In view of the compromising effects on their water rights attendant with item No. 1, we would expect the Recreation District to favor No. 2. With your concurrence, we will approach them with these two suggestions.

As a matter of interest, we do not know where Mr. Dunn learned that the Recreation District had acquired the Kelly interest in the Harbison Ditch. To our knowledge their ownership only involves Cairns #3 rights.

Thomas E. Whitecraft

Thomas E. Whitecraft

In duplicate

11-26-1962: memorandum to regional director from superintendent regarding grand lake metropolitan recreation district proposal t

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Rocky Mountain National Park
and
Shadow Mountain National Recreation Area
P. O. Box 1080, Estes Park, Colorado

IN REPLY REFER TO:
L54

November 26, 1962

Reg. Director
Admin. Asst.
Asst. to
A to
Chief Interp.
Res. Plan. & Eng.
Eng. Const.
Info. & Pubs.
Field Solic.
D Aiton
Action taken
File

Memorandum

To: Regional Director, Midwest Region

From: Superintendent, Rocky Mountain

Subject: Grand Lake Metropolitan Recreation District proposal to use Harbison Ditch, Rocky Mountain

Mr. Aiton's memorandum of November 16, properly questions subject proposal in quoting from Part 5, Chatper 1, Page 29, Policies, of the Organization Volume, which states: "No water shall be diverted from Federal land within to private land outside of such parks, except as specifically authorized by the Secretary or the Congress."

Taking this into advisement, we have again considered their proposal and still feel the diversion is desirable, and accordingly request authorization by the Secretary for the following reasons:

1. The golf course presently under construction by the Grand Lake Metropolitan Recreation District is very dependent upon subject diversion as it is the most logical and only relatively inexpensive source of water available to their golf course area.

2. The Harbison Ditch must be considered a permanent feature by virtue of its partial ownership by the Columbine Lake interests outside the Park, and by our own use for irrigation purposes and as a source of domestic water for the proposed Grand Lake Utility Area development. Thus there is no foreseeable possibility of eliminating the Harbison Ditch as an entity, and accordingly the Service's position would not be compromised nor hampered by subject proposal to add a minor amount of water flow to the ditch.

3. As a matter of basic policy, the Service has supported the efforts of the Grand Lake Metropolitan Recreation District. By disclaiming our interest in the Bureau of Reclamation land, we made it possible for their development of the golf course. It is our belief that development of recreational facilities outside the Park in this region will be of great benefit to our own program by virtue of their helping to share the recreational load of increasing numbers of visitors.

TO
DATE 1-2-63

4. Inasmuch as this is a non-profit organization operating under State charter dedicated to recreational development, it is doubtful if an unfavorable precedent will be established by our permitting the proposed diversion. The contemplated development is for public, rather than private, use.

If you agree with our thoughts on this subject, we would appreciate your making proper request to the Secretary's office for authorization of the proposed change in point of diversion.

Allyn F. Hanks

In duplicate

11-16-1962: memorandum to superintendent from acting assistant regional director regarding grand lake metropolitan recreation c

L54 RGMD

Memorandum NOV 16 1962

To: Superintendent, Rocky Mountain

From: Acting Assistant Regional Director

Subject: Grand Lake Metropolitan Recreation District proposal to use Harbison Ditch, Rocky Mountain

We have reviewed the subject proposal enclosed with your memorandum of November 1.

In the Organization Policies, Part 5, Chapter 1, Page 29, under "Water Rights" it states, in part, "No water shall be diverted from Federal land within to private land outside of such parks, except as specifically authorized by the Secretary or the Congress."

Consequently, special authorization from the Secretary or the Congress will be required for the subject district to divert water from a point within the Park for private use outside the Park boundaries. Such authorization, if granted, might effect an undesirable precedence.

We shall appreciate your careful consideration of this proposal and your recommendation.

(Sgd) John F. Aiton

HAMOTT:ch

John F. Aiton
Acting Assistant Regional Director

11-01-1962: memorandum to regional director, midwest region from superintendent regarding water rights problems

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Rocky Mountain National Park
and
Shadow Mountain National Recreation Area
P. O. Box 1080, Estes Park, Colorado

IN REPLY REFER TO:
L54 ROMO

November 1, 1962

Reg. Director
Admin. Asst.
Asst. to R. D.
Admin.
Cons-Int-Use
Res. Planning
rog. Coord.
Info. & Publs.
Field Solic.
Action taken
to Rocky 11/15/62

Memorandum

To: Regional Director, Midwest Region

From: Superintendent, Rocky Mountain-Shadow Mountain

Subject: Water rights problems

Recently a number of issues have arisen concerning water rights administration within Rocky Mountain National Park. Mr. Melaas raised questions on the Hupps, Beaver, Jones and Horseshoe ditches in his memorandum of September 12. Mr. Novak's memorandum of September 17 outlined suggestions regarding water development for the Metropolitan Recreation District's East Portal campground. Acting Chief, Branch of Water Resources, Reed's memorandum of October 11, 1962, transmitted tables of decreed rights in Water District 4 and suggested a study program be initiated to record and properly administer alien and Park water rights. Mr. McKown's memorandum of October 19 further encouraged water rights studies mentioned by Mr. Reed. The enclosed request from the Grand Lake Metropolitan Recreation District to divert, through a change of diversion, 5/8 cubic feet of water through our Harbison Ditch is similarly important to us at this time, and we enclose our reply.

As you are aware, water right matters in the State of Colorado, as well as other arid western states, are extremely complex and the danger is always present of forfeiting seniority and otherwise improperly administering such rights through lack of complete information and understanding. The forthcoming section of the Land Management Handbook which will pertain to water rights administration is not yet available, nor can we locate any other qualified reference on the subject. Past decisions on the use, development, and administration of water rights have sometimes been based on incomplete knowledge or advice from local authorities who may or may not be qualified to give that advice.

// Because of the aforementioned situation, we have discussed with members of the Regional Solicitor's Office in Denver the possibility of having a water rights school held in Rocky Mountain

C.C. MAIL TO: Kate Brown
BY: MB DATE 12/13/62

National Park covering the basic legal structure of the water right laws in Colorado. We and the Solicitor's representative feel that two days would be the proper amount of time to devote to such a school. Tentatively, we are aiming for the last week in November, although this will depend on the availability of the Solicitor's personnel. Enclosed is a suggested agenda of such a school. We invite your review and comment on the subject matter. We also suggest that other National Park Service areas within the State of Colorado, as well as Mr. Mott and other members of the Regional staff might find it worth while. Please let us have your thoughts on the subject.

We shall withhold making further arrangements through the Regional Solicitor until we hear from you. We are somewhat tempted to postpone the school until the Park Engineer GS-9 position, which has been vacant since last June, can be filled, inasmuch as the incumbent will be responsible for most of the field work on water rights. However, we believe it best to plan on the late November schedule whether the position is filled or not.

In the meantime, we would appreciate your advice on the application by the Grand Lake Metropolitan Recreation District. The right which they have acquired is our alien water right No. 6, Filing No. 31, Decreed Appropriation No. 38, designated as Ditch No. 1 by the Courts, but known as Cairns No. 3 Ditch, carrying a priority date of September 1, 1885; and designated for irrigation purposes. The present point of diversion is at a point whence the northeast corner of Section 5, Township 3 North, Range 75 West, bears east 33° 15' north, 2,973 feet. The proposed change in point of diversion would move the ditch rights from the present location (on the North Inlet of Grand Lake) to Tonahutu Creek, which is a western tributary of the North Inlet. See the enclosed sketch. The Cairns No. 3 right is senior to our Harbison Ditch water right, Appropriation No. 199, docket No. 23. Thus it would appear that the senior water running through our ditch would actually enhance the value of the Harbison Ditch water right, not only through added seniority but through the larger amount of water maintaining a greater perimeter of saturation and reducing the water loss through evaporation and percolation. There are five water rights on the Tonahutu Creek-North Inlet drainage influenced by our Harbison Ditch, and before we proceed with the adjudication allowing the change in point of diversion, we would naturally want to contact each of the water right owners to see if any opposition would be presented in the adjudication. Also, as the Harbison water right is owned partly by the owner of Columbine Lake outside of the Park, his permission in the matter would be required, as we have pointed out to the Recreation District.

Allyn F. Hanks

In duplicate

Suggested Agenda
School of Colorado Water Rights
To be Held at Rocky Mountain National Park

1. Historical Background of Colorado Water Right Laws

2. Ground Water Laws

3. Appropriative Surface Water Rights Procedure

   (a) Design and Development of System
   (b) Application Requirements--establishing date of priority
   (c) Diligence in Development
   (d) Adjudication in District Courts
   (e) Responsibility--during change of title through acquisition of private lands and appurtenant water systems and/or rights.

4. Administration of Water Rights in State of Colorado

   (a) Water Districts--irrigation divisions--authority and responsibility of water commissioners
   (b) Jurisdiction of District Courts--adjudication proceedings
   (c) Rights of Water Right Owners--procedure of making protests and opposition of adverse proposals.

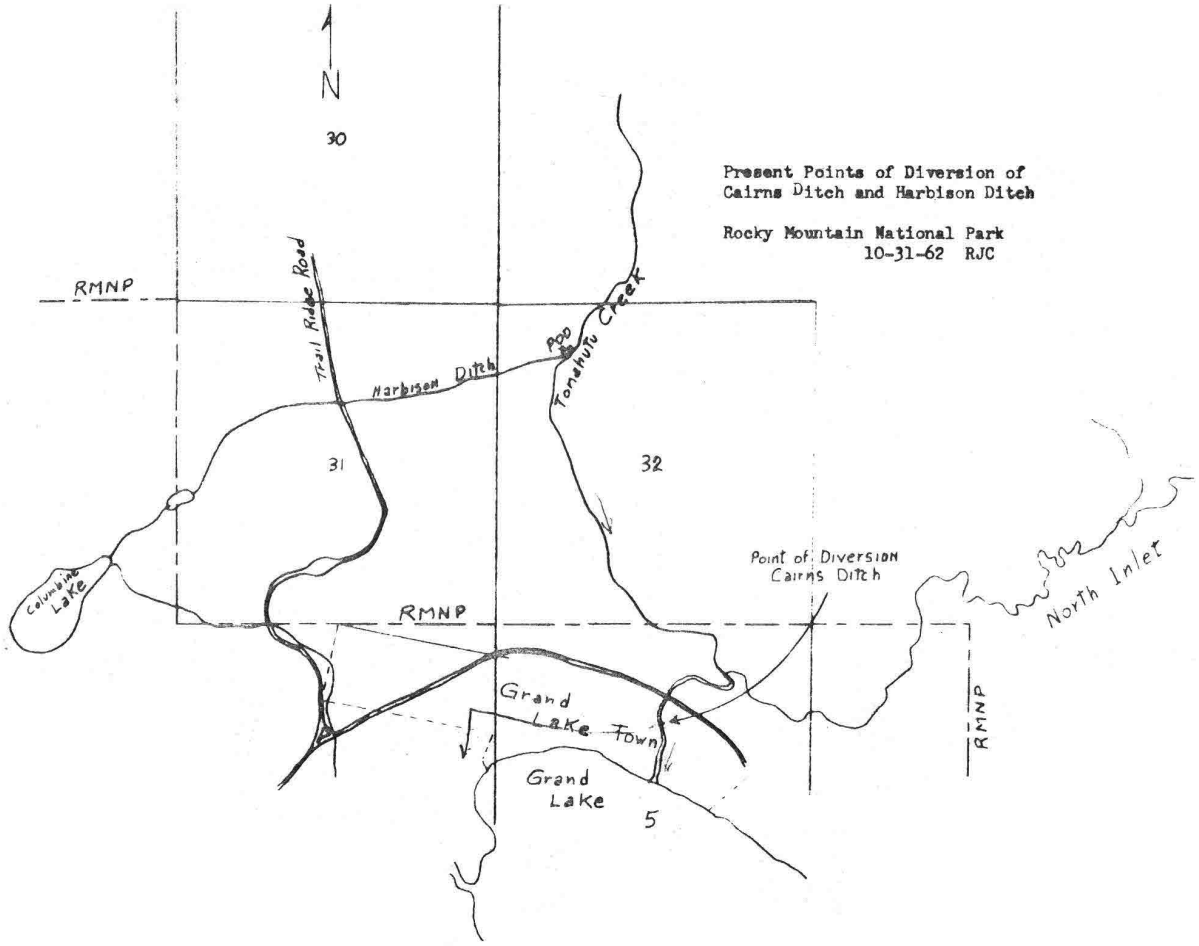
5. Responsibility of Service in Making Proper Use and Protection of Service-Owned Water Rights

   (a) Protection of Rights through beneficial use; avoiding legal abandonment
   (b) Keeping adequate records of use,etc.
   (c) Maintenance--keeping ditches and pipelines in repair
   (d) Measuring Devices--need for having at all points of diversion
   (e) Legal procedure to follow in changes of points of diversion
   (f) Depletion of senior rights through changes of points of diversion or improper use and development
   (g) Reasonable determination of water needs
      (1) abandonment of undeeded rights
      (2) transfer of unneeded rights to other Department of Interior Agencies or Forest Service

6. Best use of available water right maintenance funds

11/1/62

10-31-1962: map of present points of diversion of cairns ditch and harbison ditch



11-01-1962: letter to attorney from superintendent regarding permission for the grand lake metropolitan recreation district to join th

Rocky Mountain National Park
and
Shadow Mountain National Recreation Area
154 NRRO P. O. Box 1080, Estes Park, Colorado

November 1, 1962

Mr. George S. Fuller
Attorney at Law
Fuhrmann Union Building
Denver 3, Colorado

Dear Mr. Fuller:

We have your letter of October 18 requesting permission for the Grand Lake Metropolitan Recreation District to join their Cairns Ditch No. 3 Water Right, designated Ditch Number 1, Appropriation No. 38 in District No. 51, bearing 5/8 cu. ft. of water, with our Harbison Ditch by way of a change in point of diversion for the Cairns Ditch.

We are in sympathy with the proposal but the administration of water rights is so important that we must review the matter with our Regional Office. Providing approval can be granted to your proposal, we would then prepare a memorandum of agreement between the Recreation District and the National Park Service, documenting the terms of the agreement; after which the change in point of diversion could be sought for adjudication through the District Courts. As you may know, Harbison Ditch is not entirely owned by the National Park Service and permission must also be obtained from the other owner, who is the proprietor of Columbine Lake. We believe it best for the Recreation District to obtain clearance in this respect. Both the proprietor of Columbine Lake and the National Park Service are now making use of the Harbison Ditch for domestic irrigation and fish cultural services. However, with repair and minor reconstruction of subject ditch, we are sure that it could easily handle the additional 5/8 cu. ft. of water per second.

We would like to know if the other owner is agreeable to your proposal and, in the meantime, we shall pursue the matter and attempt to obtain a decision within the next few weeks.

Allyn F. Hanks
Superintendent

cc:
Regional Director, Midwest Region (2)

10-18-1962: letter to superintendent from attorney regarding permission to change the point of diversion to a point on tonakita cree

GEORGE S. FULLER
ATTORNEY AT LAW
FARMERS UNION BUILDING
DENVER 3 COLORADO
AM 6-1739

October 18, 1962

Mr. Allyn F. Hanks, Superintendent
Rocky Mountain National Park
Shadow Mountain National Recreation Area
P. O. Box 1086
Estes Park, Colorado

Dear Mr. Hanks:

I wish to advise that the Grand Lake Metropolitan Recreation District is now owner of the Cairns Ditch and Water Right, designated Number 1, Appropriation No. 38 in District No. 51, which entitles the District to 5/8 cu. ft. of water per second from the North Inlet.

The Grand Lake Metropolitan Recreation District will file a petition with the District Court for permission to change the point of diversion as now established, to a point on Tonakita Creek, a tributary of the North Inlet, at a point where the Harbenson Ditch, owned by the Rocky Mountain National Park has a right of diversion. This, of course, is providing that we are able to obtain your permission or that of the Rocky Mountain National Park to run water through the Harbenson Ditch to the Columbine Lake area where the water will be picked up and used on the Recreation District's golf course. In event this is granted by the proper authority for control of the Harbenson Ditch, the Recreation District will of course maintain the ditch for the benefit of both the National Park and the Recreation District.

The feeling of the board was so positive that this would benefit your agency, as well as the Recreation District, that they went forward with the purchase of this water right from Mrs. Cairns on the assumption that they would obtain favorable action from the government as to permission for the use of the Harbenson Ditch. They will provide such construction, repairs and maintenance on the Harbenson Ditch that will sustain not only their own use but shall provide for any use of the ditch that the government should desire in a joint usage. It is my understanding that the ditch could provide service to both the government and the Recreation District -- and that the ditch is not being used at the present time.

10-18-1962: letter to superintendent from attorney regarding permission to change the point of diversion to a point on tonakita cree

This letter is exploratory inasmuch as I do not have descriptive information on the Harberson Ditch, or its ownership, and the proper authority to whom this letter should be directed, but I assume it is you. I would appreciate any advice and help that you feel inclined to grant us in this matter.

Sincerely yours,

George S. Fuller, Attorney for
Grand Lake Metropolitan Recreation
District

GSF:f

cc: Mr. John G. Holzwarth, Director
Grand Lake Metropolitan Recreation District
Grand Lake, Colorado

Rocky Mountain National Park
and
Shadow Mountain National Recreation Area
P. O. Box 1086, Estes Park, Colorado

February 15, 1960

Memorandum

To: Regional Chief of Operations, Region Two

From: Superintendent

Subject: Proposed Schedule For Work Order, No. ROMO 1-WR-60, Fund Symbol 14 X 1035 (0343), Rocky Mountain National Park.

Attached to Mr. Gratton's memorandum of January 15, 1960, we received a $1,500 Work Order No. ROMO 1-WR-60, Fund Symbol 14 X 1035 (0343), for Rocky Mountain National Park, with a request for a schedule of work to be accomplished on water rights during the remainder of fiscal year 1960.

Our proposed schedule for the period February 15 to June 30, 1960, is as follows:

1. Longs Peak Campground Pipeline, Docket No. 18, Filing No. 16642 accepted by the State Engineer on September 14, 1939, a Domestic Water Right not adjudicated. This pipeline is being relocated, extended, enlarged and the point of diversion moved upstream. Cost of survey to determine the bearing and distance from a known G.L.O. Corner, cost of preparing an amended Filing on linen as required by the State Engineer and filing fees is estimated at $225.00.

2. Harbison Ditch, Docket No. 23, Domestic, Irrigation and Fish Culture Priority No. 1 on Tonahutu Creek and Priority No. 199 in Water District No. 51, as of July 15, 1893. This water right is senior and the most valuable right on the Upper Colorado River drainage above Lake Granby. (Estimated value over $75,000) United States owns the right to divert from Tonahutu Creek through the Harbison Ditch, 3.345 cubic feet of water per second of time from April 15 to November 1, and 2.765 cubic feet per second from November 1 to April 15, but does not have an adequate headgate nor a measuring device to determine the amount of water being diverted from the stream at any given time. The Colorado Water Code requires

each water user to provide an adequate headgate at the point of diversion and a satisfactory measuring device at or within a short distance of the headgate. Failure to comply can result in an order from the District Water Commissioner, during a period of water shortage in the stream, to cease to divert water and let the flow go down stream to a junior right. This year's water content and snow depth in the Tonahutu Creek drainage is far below normal indicating a water shortage during the heavy use period of July and August. The Town of Grand Lake has developed a very extensive water works about one-half mile downstream with junior water rights. Should the Town, during a dry season, find the flow in the stream to be less than the amount they are entitled to divert under their junior rights, they could object to our diversion on the grounds that we have not complied with the water rights regulations. We cannot afford to jeopardize this very valuable water right as it is the source of supply for the proposed new visitor center, new employee residences, shops, entrance, Grand Lake Ranger Station, and the irrigation of the Harbison Meadows, a wildlife range. In order to re-define, re-establish, protect, and improve the Harbison Ditch water rights, we propose to modernize the headgate and construct a Parshall Measuring Weir at or near the point of diversion, at an estimated cost of $1,200.00, with work to begin in late June and completion in early July.

As directed, we will prepare, in quadruplicate, a narrative completion report upon completion of each proposal.

We will be happy to furnish a proposed schedule of water right projects, including investigations, for the ensuing years of MISSION 66, as requested in your memorandum of February 8th.

(SGD) James V. Lloyd

James V. Lloyd
Superintendent

In triplicate

Docket No. 23.

MAY 8 1957

H A R B I S O N D I T C H

Ditch No. 2, Stream No. 1, Water District No. 51

USE

Irrigation, Domestic, and Fish Culture. Supplies water to irrigate the Harbison Meadows, domestic water for employee quarters at Harbison Ranch, and water for fish culture at Columbine Lake.

HEADGATE

Point of Diversion is on the West bank of Tonahutu Creek about 6200 feet Northeast of Grand Lake Ranger Station and down stream about 500 feet South of the Grand Lake Power Penstock headgate, at a point whence the East Quarter Corner of Section 31, Township 4 North, Range 75 West, bears South 31° 50' West 2491.5 feet.

PRIORITY

Irrigation Priority No. 199, and Trout Culture Priority No. 1, in Water District No. 51, as of July 15, 1893, in accordance with two Decrees of Colorado District Court, dated July 21, 1911, and August 2, 1911. Irrigation Priority is senior to Fish Culture Priority at all times.

AMOUNT OF DECREES

4.46 cubic feet of water per second of time permitted to flow from Tonahutu Creek at said point of diversion as follows: For use by the United States, 3.345 cubic feet per second from April 15 to November 1, and 2.765 cubic feet per second from November 1 to April 15. For use at Columbine Lake, 1.115 cubic feet per second from April 15 to November 1, and 1.695 cubic feet per second from November 1 to April 15.

OWNERSHIP and OPERATION

Owned by United States and Proprietor of Columbine Lake. United States' interest acquired by purchase from Harbison, Kelly, and Gudgel. National Park Service is to maintain the main ditch, the North lateral, and the South lateral to the west end of the Harbison Ranch buildings.

MAPS

See Docket No. 23.

Western Ranger District. Lower Tonahutu Creek Area.

COPY

CERTIFICATE OF A. VAN V. DUNN

RELATING TO OWNERSHIP AND USE OF HARBISON DITCH

ROCKY MOUNTAIN NATIONAL PARK

As Park Engineer of Rocky Mountain National Park from July 3, 1929, to November 1, 1936, and as Associate Engineer and later Hydraulic Engineer assigned to the Water Rights Section of the Office of the Chief Counsel, National Park Service, from November 1, 1936, to the present date, I have become personally familiar with the water systems, both Park Service and private, in the western portion of Rocky Mountain National Park, Colorado, since my initial visit to the Grand Lake area about mid-July 1929.

From this personal knowledge of the areas and persons hereinafter referred to, I, A. van V. Dunn, Hydraulic Engineer, National Park Service, hereby certify to the following:

1. All areas herein referred to lie within Township 4 North, Range 75 West, 6th Principal Meridian, State of Colorado.

2. At various times during the summers of 1929 to 1936 inclusive, I observed Annie and Kate Harbison personally repairing banks, cleaning and utilizing water from the ditch lateral which traverses the Southwest Quarter of Section 30 and the North Half of the North Half of the Northwest Quarter of Section 31, and the ditch lateral which traverses the South Half of the Northwest Quarter of Section 31. The said ditch laterals are component units of the ditch known as the Harbison Ditch which diverts water from Tonahutu Creek, sometimes known as Big Meadows Creek or Little North Inlet to Grand Lake, through a headgate located on the west bank of said creek in the Northwest Quarter of the Northwest Quarter of Section 32.

3. I have never observed any one performing any work upon said ditches other than the above named sisters and their nephew, Robert Harbison.

4. At various and frequent times during the irrigating seasons of the years of 1929 to 1936 I have observed water flowing in said Harbison Ditch, and I have specifically observed the application of the water therein in the cultivation of crops upon approximately

175 acres of land below said ditch in the Southwest Quarter of Section 30 and the North Half of the North Half of the Northwest Quarter of Section 31.

5. The locations of the said Harbison Ditch, its headgates and laterals in relation to said Tonahutu Creek and to the lands being acquired under the terms of contracts Nos. I-lp-1588h and I-lp-163h7 are correctly shown on the map prepared to accompany this certificate and designated as No. NP-RM-6955. Said map is hereby specifically referred to and made a part of this certificate.

6. I have personally examined said Tonahutu Creek and Harbison Ditch, and in the summer of 1937 I conducted a survey to locate precisely the position of the headgate of said Harbison Ditch, the results of which survey are shown on said accompanying map. I know from my personal inspections of the area in 1937 and back as far as 1929 that, other than those shown upon said map, there were no headgates upon or diversions from said Tonahutu Creek from the point of its confouence with North Inlet to Grand Lake to a point upstream 8 miles distant. The ditch designated upon said map as the Harbison Ditch is the only one which possibly could have diverted water from Tonahutu Creek as described under the terms of the decree of the District Court of the State of Colorado, dated August 3, 1911, which assigned priority No. 199 to the Harbison Ditch for irrigation purposes, (see Entry No. 8, Abstract of Title No. 1034, Grand County Abstract Company, furnished in accordance with terms of contracts I-lp-1588h and I-lp-163h7); and as described by decree of July 26, 1911, which assigned priority No. 1, general adjudication No. 1 and stream No. 1 to the Harbison Ditch for an artificial lake for trout culture purposes.

7. The ditch designated upon the accompanying map as the Harbison Ditch is the only ditch which, to my knowledge, has conveyed water from Tonahutu Creek either to the Harbison lands or to Columbine Lake, and said ditch is the only means of such conveyance from Tonahutu Creek.

Dated May 23, 1940.

/s/ A. van V. Dunn
A. van V. Dunn,
Hydraulic Engineer

05-23-1940: memorandum to director from regional attorney regarding proposed purchase of 226.30 acres of land and certain wat

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA

NATIONAL PARK SERVICE
RECEIVED
MAY 2[illegible] 1940
MAILS AND FILES

601 Sheldon Building
May 23, 1940

Memorandum for the Director:

Reference is made to Chief Counsel G. A. Moskey's memorandum for me of April 8, and to other more recent correspondence, all relating to the proposed purchase by the United States from Robert A. Harbison et al. of 226.30 acres of land and certain water rights under contracts Nos. I-lp-15884 and I-lp-16347 for use at Rocky Mountain National Park.

In the first paragraph of page 3 of Mr. Moskey's memorandum of April 8 it is suggested that I prepare a memorandum opinion showing the relationship of the Harbison, Kelley, and Roy Adams interests under priority No. 199. It was stated that this memorandum opinion would be presented to the Solicitor's office.

In view of the purpose this memorandum is to serve, particular attention will be paid to the Solicitor's Opinion No. M. 30433 dated November 18, 1939.

As I remarked in my memorandum for the Superintendent dated March 4, 1940, it is apparent that the Solicitor's Opinion considered the abstract as certified on August 18, 1939, and the extensions up to and including the recertification of February 2, 1940, were not available for his examination. It is now apparent that most, if not all, of the further requirements specified by the Solicitor have now been met, namely:

1. Directly beneath the caption page of Abstract of Title 1034 prepared by the Grand County Abstract Company there is an original Certificate of Taxes Due showing that all taxes due or exigible as of January 17, 1940 (a date subsequent to the recordation of the deed to the United States) have been paid.

2. A certificate executed by Superintendent Canfield has been forwarded to you showing after physical inspection that none of the water rights mentioned in the patent covering these lands have been exercised and are not now exercised by third persons so as to create an easement or easements in the property in question.

3a

3. A Departmental report on possessory rights has been executed and forwarded by Superintendent Canfield.

4. A revised caption sheet of the abstract, specifically referring to the road right of way 200 feet in width, has been secured.

5. The matters of record concerning the probate of the Estates of Annie Harbison and Kate Harbison, and the sale of these lands and water rights to the United States under Probate Court orders are now added to the abstract.

6. Quitclaim deed from the Mountain States Telephone and Telegraph Company is shown in the abstract.

To supplement the data covered under the extended abstract, and in order to more definitely identify the adjudicated water right, priority No. 199, with our vendors, we have prepared, and we enclose herewith, an original and two copies of a certificate by Hydraulic Engineer A. van V. Dunn, together with an accompanying map. The certificate and accompanying map were prepared to be considered in conjunction with the original statement of claim No. 43 by H. M. and Kate Harbison (copies attached to maps) and with the terms of decree of the District Court, State of Colorado, Grand County, dated August 3, 1911 (Entry No. 8 of Abstract No. 1034).

The certificate and map will identify the Harbison Ditch serving the lands being acquired by the United States under the above-mentioned contracts as the only ditch which could have been referred to by the original filing or decree of August 3, 1911, and as the only ditch actually taking water out of the North Inlet to Grand Lake or Big Meadow Creek (now known as Tonahutu Creek) which has served or could serve either the Harbison lands or Columbine Lake. The certificate also establishes the use for irrigation purposes by Kate and Annie Harbison upon the lands being sold to the United States.

Kate Harbison, whose estate is making a portion of the conveyance of the lands and all the conveyance of the water right, was an original claimant of the right adjudicated on August 3, 1911, and assigned priority No. 199.

I have only the Abstract No. 1034, and other title papers are presumably in your office, and therefore I shall not concern myself with the matter of determining whether cancelled revenue stamps are affixed to the deeds, but I presume this has been taken care of prior to recordation.

4a

I shall return the abstract to the park for further extensions, in line with comments hereinafter made, and recertification.

With reference to Chief Counsel G. A. Moskey's suggestion in the first paragraph on page 2 of his memorandum for me dated April 8, 1940, to the effect that devolution of title from Adams to the Harbisons be reflected in Abstract of Title No. 1034, I do not believe this can be done, inasmuch as the Harbison interests do not derive their title with respect to priority No. 199 from Roy Adams. Our vendor's interest is derived directly from one of the original claimants -- namely, Kate Harbison -- who is shown by Mr. Dunn's certificate to have made use of the water in the Harbison Ditch for irrigation at the Harbison Ranch under the terms of the decree dated August 3, 1911.

The abstract demonstrates a conveyance by Kate Harbison to Roy Adams of an undivided one-half interest in and to that portion of the ditch, and water rights appurtenant, south of her land, but this instrument of conveyance specifically stated that it was not to affect or interfere with her one-half interest north of the south line of her property (Entry No. 9). Accordingly, after October 31, 1911 Kate Harbison divested herself of any interest in the ditch beyond her land, and insofar as she or the Harbisons were concerned the whole of the ditch and water rights beyond her property belonged to Roy Adams.

H. M. and Kate Harbison were the original claimants of all water rights in the Harbison Ditch under Ditch Statement dated July 15, 1898, and recorded July 30, 1898. This fact does not seem to appear in the instant abstract, but is shown in the abstract of title prepared by the same company in connection with the Kelley conveyance. By a quitclaim deed dated May 29, 1906, and recorded June 18, 1906, in Book 7, Page 359, H. M. Harbison conveyed a one-half interest in the Harbison Ditch to Roy Adams. This explains why at the time of the adjudication in 1911 Roy Adams and Kate Harbison together appeared as claimants in connection with the Harbison Ditch.

Priority No. 199 was assigned to the Harbison Ditch for irrigation uses under the terms of the general adjudication of irrigation rights. The purpose named in the decree awarding the Harbison Ditch priority No. 199 was irrigation. However, inasmuch as there is no time limitation specified in that decree, nor is there any acre foot limitation, and inasmuch as an incidental domestic and

stockwatering use is possible under the terms of this decree there is the possibility that the right may exist during the entire year, though greatly curtailed during seasons when irrigation is not possible. It was for this reason originally that the contract was drawn to specify the conveyance of a certain portion of priority No. 199 for use during the entire year. That is, so that all the proportionate elements of that right would be conveyed. The appraisal was prepared upon the basis of the use of water during the summer only, but in drafting the contract any possibility of winter use was attempted to be covered.

Subsequently, there was made apparent the true distinction between priority No. 199 for irrigation purposes and priority No. 1, adjudication No. 1, for purposes other than irrigation, which priority was assigned to the Harbison Ditch and claimed by Roy Adams for full use of the ditch during the months from November 1 in each year to April 15 in the succeeding year. It appeared possible that in a stream of the size of Tonahutu Creek, which has a low flow in the winter months, that the effect of the decree for uses other than irrigation, which was dated July 21, 1911, would be to chop off all other uses of the Harbison Ditch, and it was considered advisable to secure the conveyance of the winter right if possible. This conveyance of the winter right was sought as a protective measure only, and not as an obligation of our vendors. If the effect of that winter decree -- that is, priority No. 1 -- was to chop off the possibility of winter use under priority No. 199, it becomes apparent that the use of the phrase in the deed to the United States "for use during the entire year" might render the contract impossible of performance, or at least make its interpretation uncertain.

For this reason -- and again I emphasize it was for protection only -- we attempted to have our vendors fortify their conveyance by another conveyance of an equal quantity of water under the winter right. The attorney for our vendors, who happens to claim entire ownership of the winter right at the present time, has now agreed to convey a sufficient portion of that winter right to the Harbison interests to permit them to make a proper conveyance to the United States.

Accordingly, it is agreed that after he quiets his title to priority No. 1 he will convey to the Harbison interests, and they in turn will convey to the United States, the 1.65 cubic feet of water under that priority, which will supplement the conveyance of the irrigation priority No. 199. The decree quieting his title, plus the subsequent conveyances, will be made a matter of

of record, and the abstract will be extended to show these matters, and the extension with respect to this point will be confined to these particular entries rather than attempting to have a prolonged extension tracing the interest in priority No. 1 from Roy Adams up to the present time. The latter is considered unnecessary, since the interest in priority No. 1 being secured by the United States is in addition to that contracted to be conveyed under the terms of contract I-1p-15884, and this additional specific conveyance relating to priority No. 1 is not called for under the terms of that contract.

In addition to the future conveyances above referred to, the Superintendent now has in his possession a quitclaim deed from Mr. J. W. Kelley to the United States of America, conveying any interest Kelley might have in that portion (covering 1.65 cubic feet of water per second of time) of the water right designated by priority No. 199, which the Harbison interests are conveying by their administrators' deed referred to in Abstract No. 1034. This deed also was executed and delivered by Mr. Kelley as a protective measure, and not as an action called for under the terms of the original contract. As I have stated above, the Harbisons do not trace the interest in the priority No. 199 right, which they are conveying to the United States, to Roy Adams, but purely as a supplement and as an extra precaution Mr. Kelley, under his claim as successor to the Roy Adams interests, quitclaims to the United States.

In this regard, I do not consider it necessary to delay recording this quitclaim deed any longer. If at all possible, in considering this quitclaim deed, I would recommend that the Abstract No. 1034 be studied in conjunction with the abstract submitted with the Kelley title papers, for I believe that the latter will demonstrate Kelley's complete succession to the Adams interests insofar as priority No. 199 is concerned. If this be correct, the value of a quitclaim deed from Kelley to the United States, with respect to that portion of the right being conveyed by the Harbison administrators, will become apparent. If you do not find it possible to review both abstracts in connection with this particular acquisition, I nevertheless feel that it is unnecessary and not called for under the contract that Abstract No. 1034 be extended to show any interest held by Kelley in priority No. 199. To require this would be to place an undue burden upon our vendors and unnecessarily delay final acceptance of the deeds offered by them.

In short, aside from the matters relating to changes in the deeds concerning which I have no knowledge, referred to on pages 4 and 5 of the Solicitor's Opinion, I believe our vendors have very substantially complied with all reasonable requirements in connection with this conveyance, and further, that upon the completion of the actions herein referred to concerning future deeds and recertification of the abstract, they will have provided protection and additional interests exceeding those required under the original contract.

Joseph E. Taylor

Regional Attorney.

Enclosure 1835938.

cc: Regional Director, Region II, with
1 copy each of Mr. Dunn's certificate and drawing NP-RM-6955.
Supt., Rocky Mountain National Park, with
1 copy each of Mr. Dunn's certificate and drawing NP-RM-6955.

8.2

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA

MAY 21 1940
LANDS AND RIGHTS

601 Sheldon Building
May 17, 1940

Memorandum for the Director:

Attention: Chief Counsel.

Reference is made to the pending negotiations for the acquisition of the Harbison lands and water rights on behalf of Rocky Mountain National Park.

Preliminary to the drafting of an opinion in accordance with the previous request of the Chief Counsel, I offer this as a preliminary report to cover the understanding arrived at in recent conferences at Denver, Colorado.

The meeting at Denver on Wednesday, May 15, was held of those of the Park Service who have participated in this particular acquisition matter -- namely, Assistant Superintendent John McLaughlin, U. S. Commissioner Wayne Hackett, Hydraulic Engineer A. van V. Dunn, and myself. As a result of this meeting, certain misinterpretations of previous negotiations, by me as well as the others, were cleared up, and there was a general meeting of minds with respect to our proper course in contacting Mr. James W. Kelley, attorney for the Harbison Estates, the following day.

At a conference with Mr. Kelley on Thursday morning, in which we all participated, it was definitely agreed that Mr. Kelley would quiet title with respect to appropriation No. 1, adjudication No. 1, covering the winter use of the water through the Harbison Ditch in such a way as to establish his title to the entire decree. Thereafter he would execute a quitclaim deed to the Harbison Estates for the particular portion of that right which will satisfy the obligation of the Harbisons to convey an all-year right to 1.65 cubic feet of water per second of time. Upon recordation of this deed, he will advise the Harbison Estates to execute an administrators' deed to the United States, specifically referring to this particular priority, and have that made a matter of record.

In addition, he will have recorded his own quitclaim deed to the United States with respect to 1.65 cubic feet of water of the irrigation right covered by appropriation No. 199.

9a

Following recordation of these instruments (the first two of which of course will not be recorded until after the decree quieting title is made a matter of record) the abstract will be extended and recertified.

For my use in drafting an opinion I have brought the abstract back to San Francisco with me, but will return it as soon as I have forwarded the opinion. I have asked Assistant Superintendent McLaughlin to forward all title papers directly to you, after he has determined that the steps herein indicated have been taken, in order to save time.

We were advised by Mr. Kelley that he should have a decree quieting his title by June 9, and I assured him that upon delivery to the Superintendent of these instruments we would do all in our power to expedite final payment.

Actually, I feel that the results which we obtained from this meeting at Denver were very satisfactory, not only from the standpoint of showing ~~of~~ the Park Service interest in an early disposition of the matter, but also in securing a specific promise on the part of Mr. Kelley to fortify the Harbison priority No. 199 with a conveyance of an equal winter right covered under priority No. 1, adjudication No. 1. Assistant Superintendent McLaughlin expressed satisfaction with that outcome, and I feel the trip was completely justified because of the resulting concrete understanding on the part of all concerned, whereas further attempts to arrive at that understanding by correspondence might have carried over a period of months.

In view of the fact that all these conferences were held in Denver, and there was no necessity for proceeding to Rocky Mountain National Park, and in view of the further fact that it was somewhat urgent that I return to the San Francisco office as soon as possible, I did not consider it advisable to make use of my travel authority to extend my trip to Cheyenne in connection with the Emma Matilda and Two-Ocean Lake controversies in Jackson County, Wyoming.

Joseph E. Taylor

Regional Attorney.

cc: Regional Director, Region II.
Supt., Rocky Mountain Nat. Park.

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10-23
(May 1929)
6—7410

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
_____ NATIONAL PARK

FILE NO. 660-057

REPORT ON

WATER RIGHT STUDIES

ROCKY MOUNTAIN NATIONAL PARK

By

A. van V. Dunn
Associate Engineer

June 19, 1937

IMPORTANT

This file constitutes a part of the official records of the National Park Service and should not be separated or papers withdrawn without express authority of the official in charge.

All Files should be returned promptly to the File Room.

Officials and employees will be held responsible for failure to observe these rules, which are necessary to protect the integrity of the official records.

ARNO B. CAMMERER,
Director.

U. S. GOVERNMENT PRINTING OFFICE 6—7410

Branch of Land Acquisition and
Regulation,
Legal Division,
110 Sutter Street,
San Francisco, Calif.

112 - Park Water Claims on North Inlet

The park has no developed water systems on the North Inlet to Grand Lake, but it has the following potential demand.

(a) North Inlet Base Camp:

During trail construction, this camp in Section 33, T 4 N, R 75 W, has the following average water consumption:

6 men @ 25 g.p.d..... 150 g.p.d.
8 horses @ 25 g.p.d.... 200 g.p.d.

350 g.p.d.

(b) North Inlet Shelter:

There is only intermittent use of this cabin in Section 29, T 4 N, R 74 W. Its capacity is approximately 6 men. The water consumption, when full, should be ..... 200 g.p.d.

(c) North Inlet Trail Camp:

A 20-man crew is usually employed at a camp in Section 30, T 4 N, R 74 W. Its daily water consumption, during a normal summer is 1000 g.p.d.

The total park water demand on North Inlet is now approximately 1500 g.p.d. It is sugg ested that with normal increase, provision should be made for 0.05 sec. ft. Before there can be any decreed water right, there will have to be a physical appropriation by the installation of a 1" pipe line at some point. A logical point would be either the base cabin or shelter cabin.

Tonahutu Creek Drainage

Tonahutu Creek, which in many of the older filings and decrees is known as the Little North Inlet, is the logical diversion for the major park water right on the Colorado River. The existing water developments for the Grand Lake Lodge offer a physical appropriation on which to obtain a decreed right. Further, the proposed park developments at Grand Lake are all situated to make this stream the best source of supply.

The problem of establishing the necessary rights is complicated, however, by the following conditions:

1. There are existing decrees of magnitude on active water diversions by private individuals.
2. The diversion for the Grand Lake Lodge system is located to draw the maximum protest from existing owners of decrees.
3. There is a possibility that the existing diversion is too low for the proper pressure at the proposed new West Side Utility Area.

The following discussion is arranged on the basis of establishing a maximum water right on the Grand Lake Lodge water system, and suggestions regarding elimination of possible protests.

113 - Existing Grand Lake Village Water Claims

The water rights of James Cairns, and others, on North Inlet, have already been shown to have an unknown demand on Tonahutu Creek, and to be probable supplies for portions of Grand Lake Village. In addition, there are the following direct diversions from Tonahutu Creek for use in this town:

(a) Cairns Pipe Line No. 1 (James Cairns).
Filing #4386 - Jan. 20, 1908 - Claim Nov. 27, 1907.
Diversion - Little North Inlet - 4.4 sec. ft.
Section 5, T 3 N, R 75 W.
N 55° 40 W, 662 ft. from NW4 cor. Sec 5
A supplemental statement was filed in 1919, but no decree has been obtained.

(b) Tonahutu Creek Pipe Line (James Cairns).
Filing #13346 - July 28, 1921 - Claim June 25, 1921.
Diversion - Tonahutu Creek (Little North Inlet to Grand Lake) - 9.85 sec. ft.
Section 32, T 4 N, R 74 W. 75
Note that the range is incorrect for Tonahutu Creek. The diversion is shown in Range 75 West on the map.
Headgate bears N89°W, 858ft from S¼ corner Sec. 32, T4N, R75W.

(e) Ish Pipe Line (John L. Ish and Leslie J. Ish). Ish decree 6/13/45
Filing #15187 - Oct. 11, 1929 - Claim Sept. 25, 1929.
Diversion - Tonahutu Creek - 21.5 sec. ft.
Section 32, T 4 N, R 75 W.
S 1/4 Corner Sec 32 bears S 48° E, 858 ft.
It is extremely doubtful if the pipe will carry even 10% of the requested amount.

(d) Mitchell (Pipe Line or Ditch?)
Decreed Priority #4 - July 29, 1893.
Diversion - Little North Inlet to North Inlet to Grand Lake - 1.25 sec. ft.
Section 32, T 4 N, R 75 W.
Page 394 of State Record.
S 1/4 corner Sec 32 bears S 45° E, 552 ft

If all of these claims become senior to park use, they would amount to 37.00 second feet, which is close to the normal flow of the stream. In addition, the North Inlet diversions below the Tonahutu junction may add another 5.64 second feet of demand in Cairns pipe lines Nos. 2 and 3, or a total of 42.64 sec. ft.

None of these rights will be affected by the hydroelectric plant of the Lodge, but all will be reduced in available supply by thedomestic, industrial, and other uses.

114 - Harbison Ditch U. S.

The Harbison Ditch is of special significance. It, too, diverts from Tonahutu Creek, but unlike the other systems, it is seriously affected by both the hydro and domestic developments of the Grand Lake Lodge system. It diversion is approximately 200 feet down stream from the Grand Lake Lodge Diversion, and far above the return of the hydroelectric flow. In this way, it controls the administration of any right on the Grand Lake Lodge system, and would be the cause of quick protest if the park failed to permit the decreed flow to reach its headgates.

This ditch is protected by the following recorded claims:

Harbison Ditch (H. M. & Kate Harbison).
Filing #43 - Aug. 2, 1898 - Claim July 15,1894.
Diversion - West Inlet to North Inlet to Grand Lake - 40.0 sec. ft.
Section __, T 4 N, R 75 W.

Decree - Priority #199 - July 15, 1893.
Diversion - Big Meadows Creek - 4.4 sec. ft.
Section 32, T 4 (?), R 75 W.
Page 273 of State Record.

E 1/4 Cor, Sec 31, T4N, R75W — bears S 31°50' W, 2491.5

Decree - Priority #1 - date not given.
Diversion - Little North Inlet or Big Meadows Creek - 4.6 sec. ft.
Section __, T 3 N, R 75 W.
Page 203 of State Record.

The combined decrees add an additional 9.0 sec. ft. to the appropriated waters of Tonahutu Creek, and place any apparent park claims junior to 51.64 sec. ft.

Another feature of this system is that the Harbison interests have been protesting park road developments in Sections 19, 30, and 32. Unless harmony is obtained, any park water appropriation is subject to vehement protest.

115 - Grand Lake Lodge Water System

The Grand Lake Lodge Water System was first built by the Rocky Mountain Lodges Inc. in 1920, the Rocky Mountain Lodges Inc. being park operators. This original system had a diversion some distance down Tonahutu Creek from the present site, but in Section 32, T 4 N, R 75 W, as it still is.

The system was reconstructed in 1927 or 1928 with the point of diversion on Tonahutu Creek at a point 0.75 chains south of the north line of Section 32, and 53.45 chains westerly along the section line from the northeast corner of the section. The new location places the diversion approximately 200 feet up stream from the Harbison Ditch Diversion. 66'

The existing hydro plant consists of the following:

1 - 100 KVA generator unit.

1555 feet - 20" wood stave pipe.

The minimum water demand is 10.0 sec. ft.

There is also an auxiliary 30 HP generator unit.

The domestic supply of the Lodge is served by the following:

6920 feet 2" G. I. Pipe.
20,000 gallon storage tank.

The demand to date seems to have been an average of approximately 12,500 g.p.d., but with the full capacity of the hotel -- 300 guests and 50 employees -- this would increase to 35,000 g.p.d., which is approximately 90% of the pipe capacity, or, roughly 0.05 sec. ft.

There is a plan to build another hotel on the west shore of Grand Lake, with approximately the same capacity that the Lodge now has. This would result in a potential demand of an additional 10.05 sec. ft.

The present summer demand of the Grand Lake Ranger Station and Utility Area is as follows:

7 permanent residents @ 100 g.p.d.	700 g.p.d.
3 checking rangers @ 75 g.p.d.	225 g.p.d.
12 road maintenance men @ 50 g.p.d.	600 g.p.d.
2 patrol rangers @ 50 g.p.d.	100 g.p.d.
3-6 horses @ 25 g.p.d.	125 g.p.d.
Total	1750 g.p.d.

This will amount to a total demand of 0.003 sec. ft.

In the ultimate development, it is probable that the two hotels will be ample; but the Grand Lake Utility Area, when moved to its new site, will probably triple its demand or even more. On this basis, it is suggested that the following appropriation seems necessary:

Domestic Supply:	
For hotels	0.10 sec. ft.
For Utility Area	0.05 sec. ft.
Total	0.15 sec. ft.
Hydro Power	25.0 sec. ft.

If the Grand Lake Area is "taken into the park", there will also be need for the continuation and expansion of some of the existing facilities in that area. It is believed that the existing private decrees and filings will be ample, but care must be taken to include such water rights in any land purchases made by the park.

Tonahutu Creek Summary

The following constitute the definite water claims on Tonahutu Creek:

Park Service Domestic.....	0.15 sec. ft.
Park Service Power.....	25.00 sec. ft.
Harbison Decrees.....	9.00 sec. ft.
Cairns Pipe Line #1 Filing.....	4.40 sec. ft.
Tonahutu Creek Pipe Line Filing.....	9.85 sec. ft.
Ish Pipe Line Filing.....	21.50 sec. ft.
Mitchell Decree.....	1.25 sec. ft.
Total.....	71.15 sec. ft.

This is at least three times the normal flow, and probably ten times the late summer flow.

It is probable that the Cairns #1 and Tonahutu will be cut to 5.0 sec. ft. in an adjudication. The Ish will probably be reduced to 1.0 sec. ft. in the same way. This would reduce the potential demand to approximately 41.4 sec. ft., which is still more than the stream flow.

There will also be a probable cut in the Park Service claim if it is adjudicated. A means of preventing this would be to provide a greater power head and reduce the demand flow before it goes to court. To increase the head means move the diversion upstream or the power plant down.

The influence of the Harbison Ditch is such that it would be desirable to move the whole plant up stream to a point where the return water would be available for this diversion. It is believed that such a move would remove the Harbison protests of park water rights. Without doubt, the Harbisons would agree to the domestic diversion of 0.15 sec. ft. if they were sure that was all that influenced their supply.

The complication in this plan is that the park should acquire some water right immediately, preferably by purchase. To hold this, it will be necessary to apply the water through developed systems. It is hardly practical to reconstruct the Grand Lake Lodge system at this time, and hence it will be necessary to anticipate some form of conditional decree in the adjudication of the transfer of point of present diversion.

Due to the possibility of partial failure in any adjudication, it will doubtless be desirable to limit the purchase of a water right to an option until the decree is obtained. Meantime, there should be a filing on a new appropriation for the same amount in the adjudication to provide some right in case the objection to early priority is too strong.

Summary

The following table gives a summary of the park water demands on the Colorado River, and the type of right suggested:

Existing Points of Diversion	Ultimate Use	Quantity By Purchase	Quantity By New Approp.
Domestic Systems			
Beaver Creek	Never Summer Ranger Station	0.020 sec.ft.	
	CCC Camp	0.010 sec.ft	
	Never Summer Fire Guard	0.001 sec.ft.	
Total Beaver Creek Appropriation		0.031 sec.ft.	
Timber Creek	Timber Creek Road Camp and Campground	0.050 sec.ft.	
	Milner Pass Road Camp	0.020 sec.ft.	
Total Timber Creek Appropriation		0.070 sec.ft.	
Pole Creek Well	Pole Creek Ranger Station	0.000 sec. ft.	
	Shadow Mtn. Fire Lookout	0.010 sec. ft.	
	Columbine Creek Stub Camp	0.001 sec. ft.	
Total Pole Creek Well Appropriation		0.011 sec. ft.	
Grand Lake Ranger Station Well	Grand Lake Entrance	0.005 sec. ft.	
Tonahutu Creek	Grand Lake Lodges	0.100 sec. ft.	
	Grand Lake Utility	0.050 sec. ft.	
	North Inlet Base Camp	0.010 sec. ft.	
	North Inlet Shelter	0.020 sec. ft.	
	North Inlet Trail Camp	0.020 sec. ft.	
	Lone Pine Trail Camp	0.010 sec. ft.	
	Lake Verna Shelter	0.010 sec. ft.	
Total Tonahutu Creek Appropriation		0.220 sec. ft.	

Existing Points of Diversion	Ultimate Use	Quantity By Purchase	Quantity By New Approp.
Power Systems			
Tonahutu Creek	Grand Lake Lodge Headquarters	15.0 sec. ft.	15.0 sec. ft.
(New appropriation is a precaution and reserve in case of difficulty in adjudication.)			
Fish Rearing Ponds (Proposed)			
Columbine Lake Outlet	Columbine Fish Rearing Pond		0.5 sec. ft.
East Inlet	East Inlet Fish Rearing Pond		0.5 sec. ft.
Total conditional appropriation for fish ponds			1.0 sec. ft.

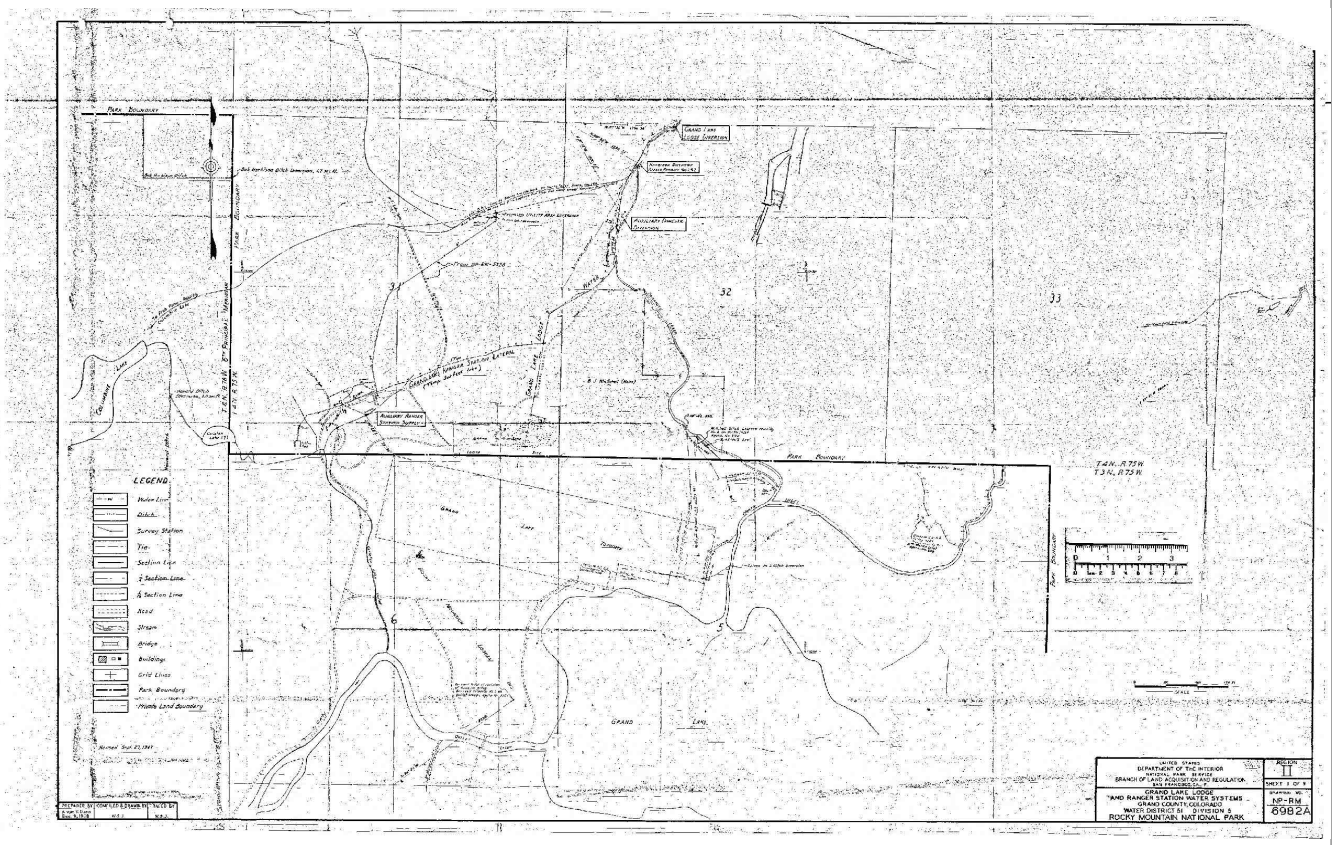
There is one possible park claim to an existing decree in the Pole Creek Ditch with priority #9. However, this will require further study as to last ownership, file number, and quantity of water, to determine whether it is of value to the park. In general, it will be necessary to acquire water rights either by purchase or new appropriation.

The present over-appropriation in District 51 makes the value of a new appropriation extremely doubtful. The best sources of a water right seem to be as follows:

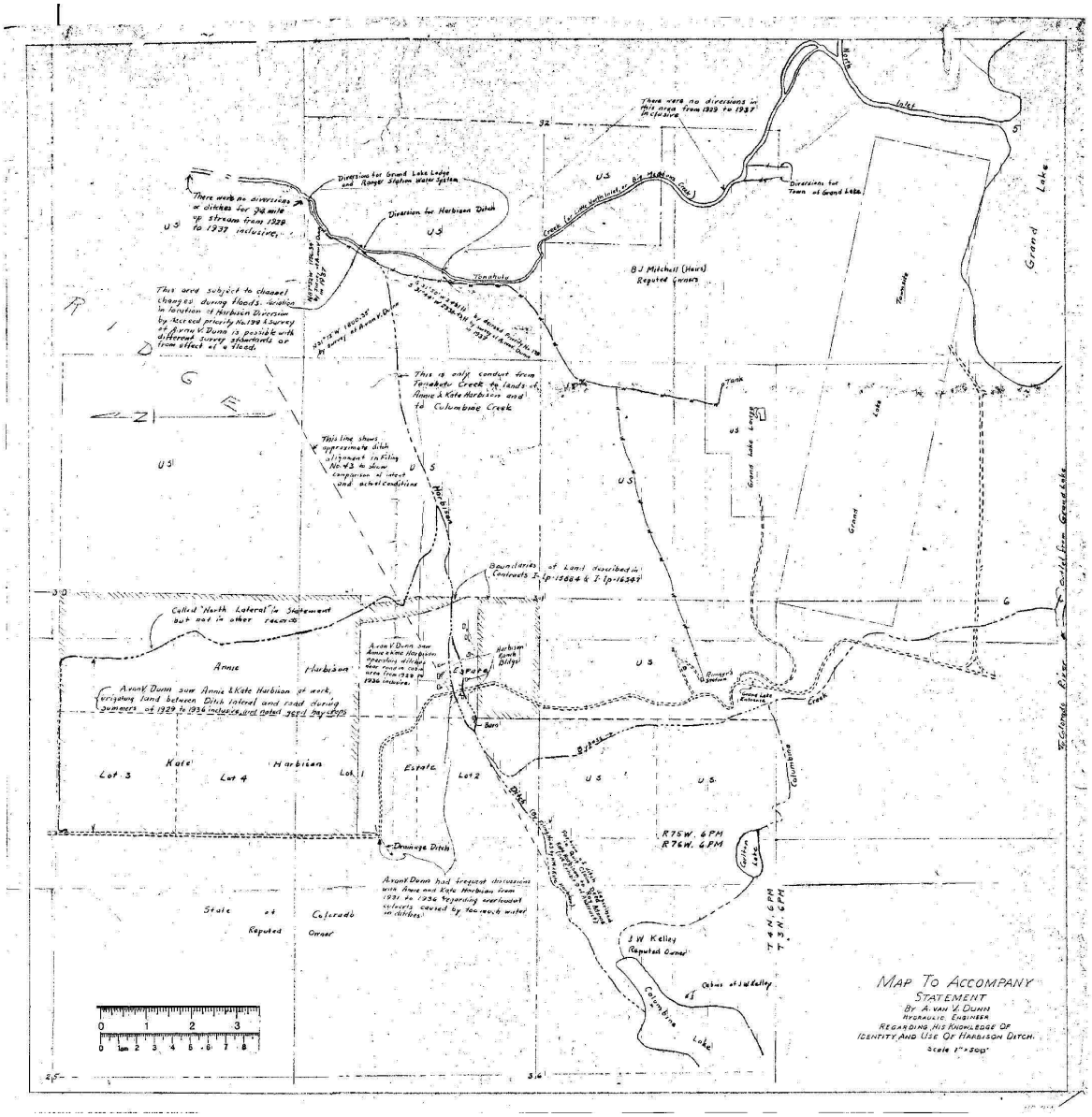
1. From Grand River Ditch of the Water Supply and Storage Co.

   It seems highly probable that this company would be willing to sell the required 15.337 sec. ft., because much of their existing right to 524.6 sec. ft. is impractical with the limited capacity of La Poudre River. By obtaining priority 83, the park would obtain an intermediate priority between the two Harbison priorities of #1 and #199, and so have an equitable position on Tonahutu Creek, and on the Upper Colorado River.

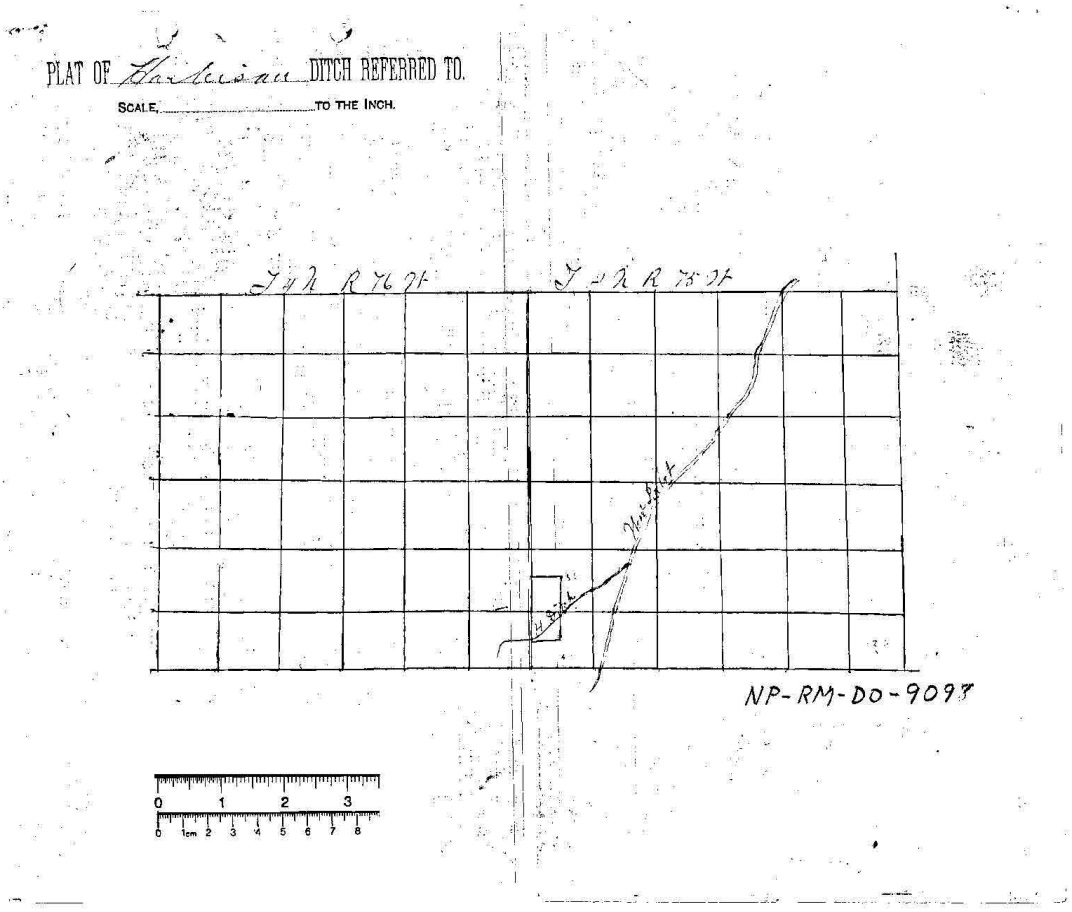
12-09-1938: map of the grand lake lodge and ranger station water systems

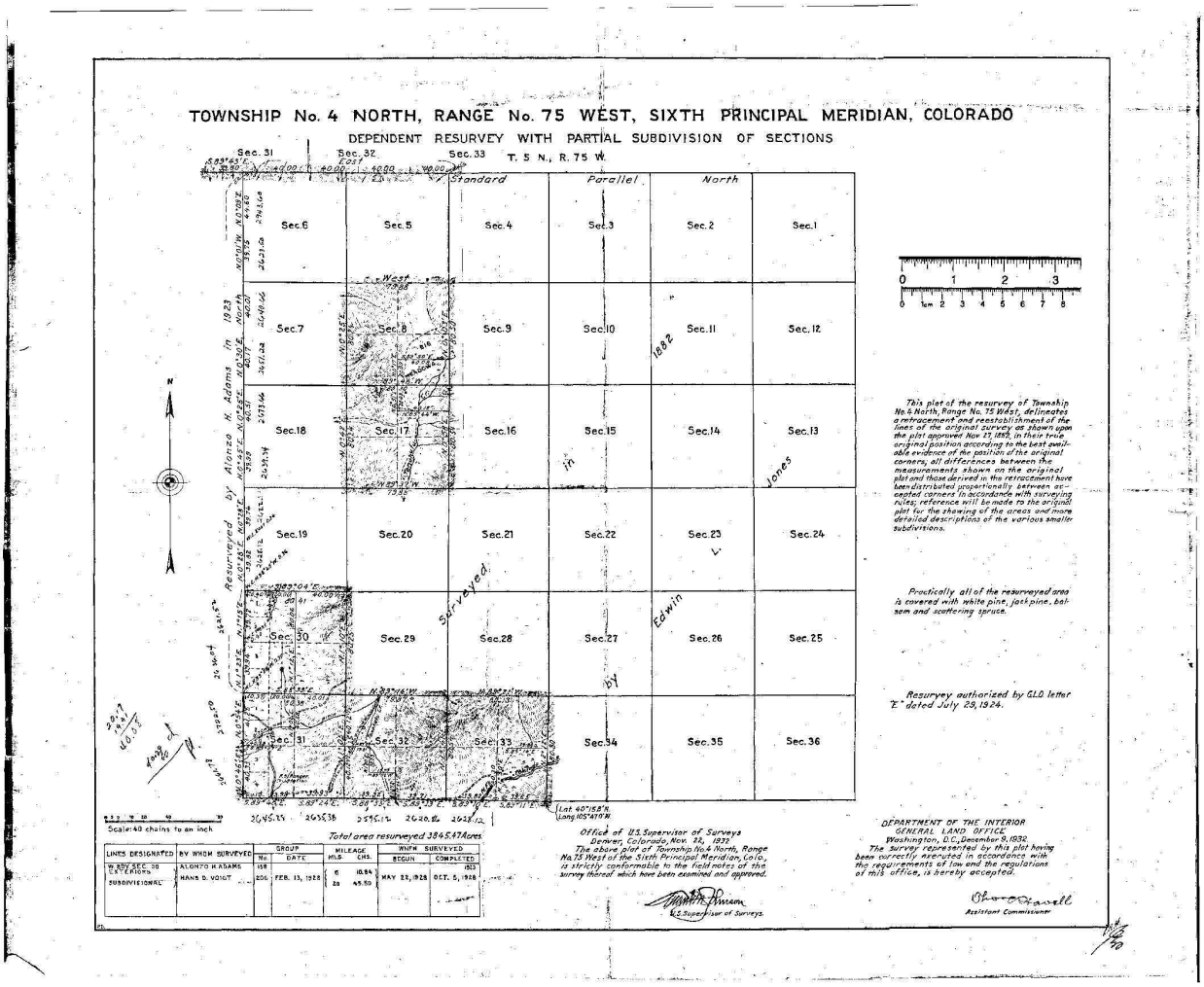


00-00-0000: map indicating the use and identity of the harbison ditch

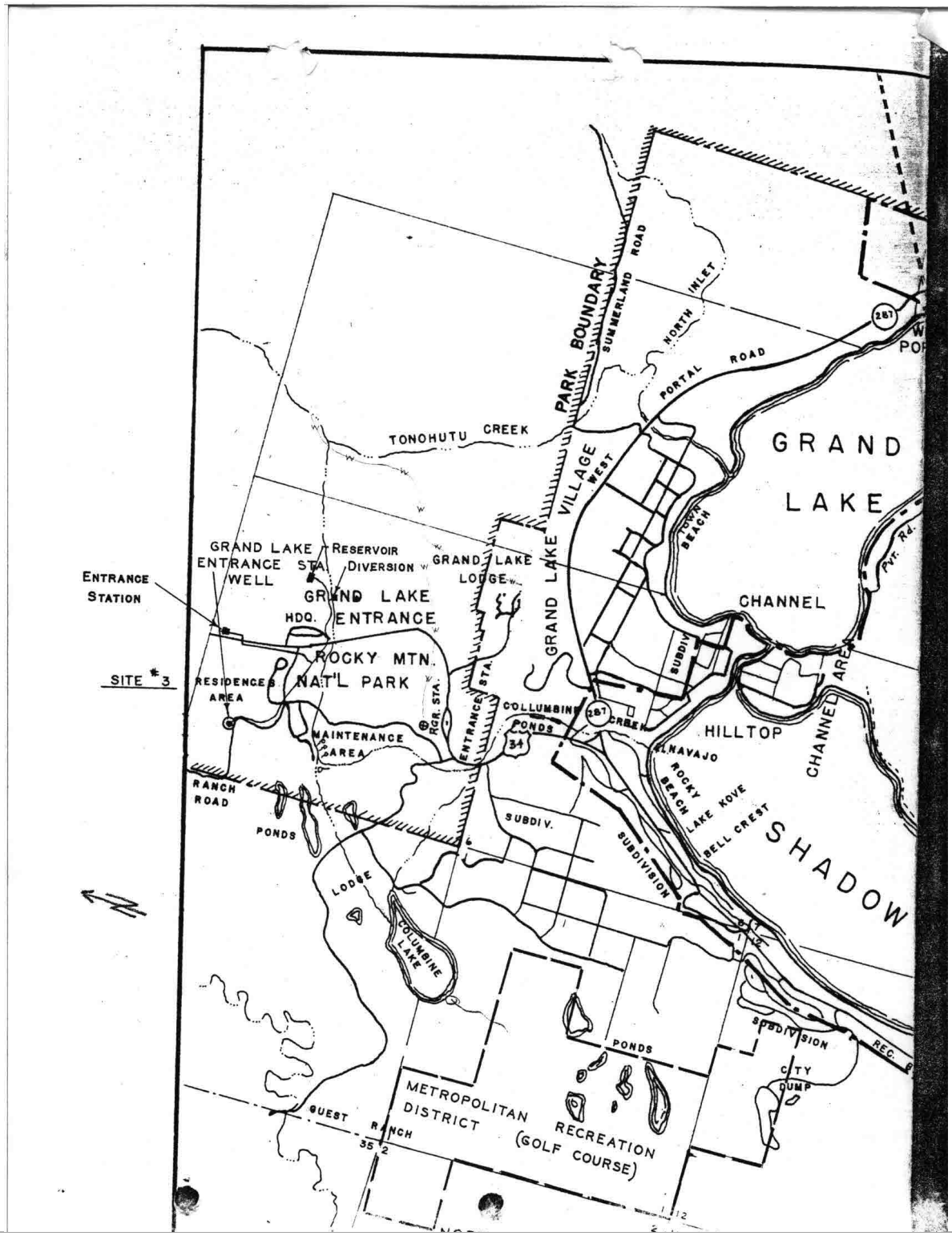


00-00-0000: plat of the harbison ditch



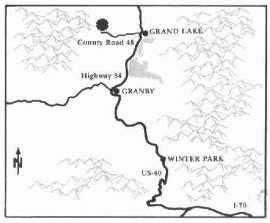

TOWNSHIP No. 4 NORTH, RANGE No. 75 WEST, SIXTH PRINCIPAL MERIDIAN, COLORADO
DEPENDENT RESURVEY WITH PARTIAL SUBDIVISION OF SECTIONS
T. 5 N., R. 75 W.
Standard
Parallel
North
Sec.1
Sec.2
Sec.3
Sec.4
Sec.5
Sec.6
Sec.7
Sec.8
Sec.9
Sec.10
Sec.11
Sec.12
Sec.13
Sec.14
Sec.15
Sec.16
Sec.17
Sec.18
Sec.19
Sec.20
Sec.21
Sec.22
Sec.23
Sec.24
Sec.25
Sec.26
Sec.27
Sec.28
Sec.29
Sec.30
Sec.31
Sec.32
Sec.33
Sec.34
Sec.35
Sec.36
Resurveyed by Alonzo H. Adams in 1923
Surveyed by Edwin Jones in 1882
Scale: 40 chains to an inch
Total area resurveyed 3845.47 Acres.
Lat 40°15'8"N
Long 105°41'0"W
This plat of the resurvey of Township No.4 North, Range No. 75 West, delineates a retracement and reestablishment of the lines of the original survey as shown upon the plat approved Nov 27, 1882, in their true original position according to the best available evidence of the position of the original corners, all differences between the measurements shown on the original plat and those derived in the retracement have been distributed proportionally between accepted corners in accordance with surveying rules; reference will be made to the original plat for the showing of the areas and more detailed descriptions of the various smaller subdivisions.
Practically all of the resurveyed area is covered with white pine, jack pine, balsam and scattering spruce.
Resurvey authorized by G.L.O. letter "E" dated July 23, 1924.
Office of U.S. Supervisor of Surveys
Denver, Colorado, Nov. 23, 1932
The above plat of Township No.4 North, Range No.75 West of the Sixth Principal Meridian, Colo., is strictly conformable to the field notes of the survey thereof which have been examined and approved.
U.S. Supervisor of Surveys.
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
Washington, D.C., December 9, 1932.
The survey represented by this plat having been correctly executed in accordance with the requirements of law and the regulations of this office, is hereby accepted.
Assistant Commissioner
LINES DESIGNATED
BY WHOM SURVEYED
GROUP No
DATE
MILEAGE MILS
CHS.
WHEN SURVEYED BEGUN
COMPLETED
W. AND N. SEC. OR EXTERIORS
ALONZO H. ADAMS
138
SUBDIVISIONAL
HANS D. VOIGT
206
FEB. 13, 1928
6 10.84
28 45.59
MAY 23, 1928
OCT. 5, 1928

00-00-0000: topographical map of romo





To reach the Grand Lake Metropolitan-Recreation District Golf Course take Highway 34 north from Route 40 in Granby coward Rocky Mountain National Park and Grand Lake. Turn left on County Road 48 approximately one-quarter mile north of the entrance to the village of Grand Lake and follow it to the golf course.



For additional information call:
Grand Lake Golf Course – (303) 627-8008
Restaurant and Lounge – (303) 627-3922
Grand Lake Touring Center – (303) 627-8008
General Recreation (303) 627-8328
Grand Lake Area Chamber of Commerce – (303) 627-3402

Grand Lake Metropolitan-Recreation District
111 County Road 48 – PO Box 590
Grand Lake, Colorado 80447

GRAND LAKE GOLF COURSE



Grand Lake
Metropolitan Recreation District

"THE CROWN JEWEL OF MOUNTAIN COURSES"

—David Nelson, Rocky Mountain News

Picture an 18-hole championship golf course, carved out of the woods at an altitude of 8,420 feet in the Colorado Rockies. The challenging fairways are bordered by tall lodgepole pines, which surround the well-tended, subtle greens. Majestic mountains—some still capped by the winter snows—tower high above you. And it's all yours for the taking at the Grand Lake Golf Course, where your approach shot just might be checked out by a curious elk, mule-tail deer or fox.

For sharpening up your skills, a driving range and putting green are available and the members of our staff of golf professionals are available for lessons if you so desire. Facilities include a well-stocked pro shop, complete with clubs, balls and a large selection of clothing and accessories.

Whether you're an expert or a duffer, the spectacular vistas of the Grand Lake Golf Course are sure to make your day a most pleasant one.



Aerial Photography
BOB WINSETT

DEDICATED TO YEAR-ROUND RECREATION

The Grand Lake Metropolitan-Recreation District, located at the west entrance to Rocky Mountain National Park, offers recreational opportunities 365 days a year against a spectacular backdrop of unspoiled mountain grandeur.

During the winter months, you can experience the freedom of cross-country skiing on 25 kilometers of tracked and skating trails. Surrounded by the scenic panoramas of the Never Summer Range and the Arapaho National Forest, the Grand Lake Touring Center provides a variety of terrain, tailor-made for skiers whose ability ranges from beginners to advanced. The season includes a variety of special events and races throughout the winter.

The ski shop offers rentals, lessons and a variety of skiing accessories from which to choose. Hungry? Our restaurant and lounge present a tempting array of food and beverages for you to enjoy in front of a roaring fire, as you gaze out a picture window at the beauty surrounding you. Open all year, the restaurant and lounge features a delectable breakfast and lunch menu, thirst-quenching drinks and hot toddies. If a party, wedding or banquet is on your agenda, sit back and turn the details over to our experienced staff.

When the snow melts and the thermometer rises, two hard-top tennis courts are available for your enjoyment, in addition to the golf course. Lessons, tournaments, clinics and league competition are scheduled throughout the summer.

Other events on the Grand Lake Metropolitan Recreation District calendar include year-round athletic and cultural programs for all ages, road races, car rallies, golf tournaments, ski races, sport camps and much more. "Grand" is indeed an apt description of the opportunities the district offers you.



















LOCATED IN THE HEART OF THE ROCKIES

The mountain-locked village of Grand Lake—two and one-half miles from the Grand Lake Metropolitan-Recreation District—presents a wide variety of picturesque restaurants, shops and accommodations from which to choose. Snowmobiling, boating, fishing, hiking, camping, hunting and special events such as the famed Buffalo Barbecue are a few of Grand Lake's special attractions for the entire family.

Docket Information

Number of Documents in Docket 270

Documents Dated from 8/2/1898 to 7/16/1998

Docket Compiled: 6/14/2011